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Ontario

# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 371

DATE: Tuesday, April 21, 1992

BEFORE:

A. KOVEN Chairman

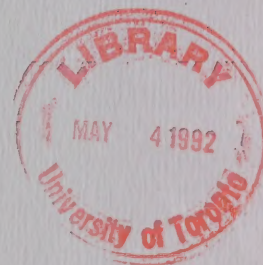
E. MARTEL Member

FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249

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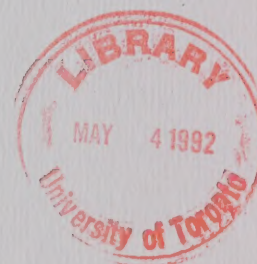
E. MARTEL Member

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable  
Jim Bradley, Minister of the Environment,  
requiring the Environmental Assessment  
Board to hold a hearing with respect to a  
Class Environmental Assessment (No.  
NR-AA-30) of an undertaking by the Ministry  
of Natural Resources for the activity of  
Timber Management on Crown Lands in  
Ontario.

-----  
Hearing held at the offices of the Ontario  
Highway Transport Board, 10th Floor, 151 Bloor  
Street West, Toronto, Ontario, on Tuesday, April  
21, 1992, commencing at 12:30 p.m.

-----  
VOLUME 371

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member








A P P E A R A N C E S

MR. V. FREIDIN, Q.C.	)	MINISTRY OF NATURAL
MS. C. BLASTORAH	)	RESOURCES
MS. K. MURPHY	)	
MR. B. CAMPBELL	)	
MS. J. SEABORN	)	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE	)	
MR. R. TUER, Q.C.	)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN	)	ASSOCIATION and ONTARIO
MS. E. CRONK	)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY	)	ASSOCIATION
MR. D. HUNT	)	
MR. R. BERAM		ENVIRONMENTAL ASSESSMENT BOARD
MR. J.E. HANNA	)	ONTARIO FEDERATION
DR. T. QUINNEY	)	OF ANGLERS & HUNTERS
MR. D. O'LEARY		
MR. D. HUNTER	)	NISHNAWBE-ASKI NATION
MR. M. BAEDER	)	and WINDIGO TRIBAL COUNCIL
MS. M. SWENARCHUK	)	FORESTS FOR TOMORROW
MR. R. LINDGREN	)	
MR. D. COLBORNE	)	GRAND COUNCIL TREATY #3
MR. G. KAKEWAY	)	
MR. J. IRWIN		ONTARIO METIS & ABORIGINAL ASSOCIATION
MS. M. HALL		KIMBERLY-CLARK OF CANADA LIMITED and SPRUCE FALLS POWER & PAPER COMPANY





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APPEARANCES (Cont'd):

MR. R. COTTON		BOISE CASCADE OF CANADA LTD.
MR. Y. GERVAIS	)	ONTARIO TRAPPERS
MR. R. BARNES	)	ASSOCIATION
MR. P. ZYLBERBERG	)	NORTHWATCH COALITION
MS. B. LLOYD	)	
MR. J.W. ERICKSON, Q.C.)		RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK	)	MUNICIPAL COMMITTEE
MR. D. SCOTT	)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR	)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL		GREAT LAKES FOREST
MR. S.M. MAKUCH		CANADIAN PACIFIC FOREST PRODUCTS LTD.
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MR. J. EBBS	)	FORESTERS ASSOCIATION
MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY







APPEARANCES (Cont'd):

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

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I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
2198	One-page outline of overhead to be used during evidence of Dr. Peter Homenuck.	64571
2199	Letter dated April 9, 1992 from John Cutter of Meadowside Lumber Limited.	64606





1 ---Upon commencing at 12:30 p.m.

2 MADAM CHAIR: Good afternoon. Please be  
3 seated.

4 We're here to complete hearing the  
5 evidence of Northwatch and the associated groups of the  
6 Northshore Tribal Council, the United Chiefs and  
7 Councils of Manitoulin and the Union of Ontario  
8 Indians, and I understand that counsel will not be here  
9 today because of a fog in Sudbury.

10 But, Ms. Lloyd, I understand you'll be  
11 taking up the slack, and we will be hearing from three  
12 of your witnesses, I understand.

13 MS. LLOYD: We'll be calling five  
14 witnesses today.

15 MADAM CHAIR: Five witnesses, all right.  
16 Well, we have certainly gone -- do they have written  
17 evidence, all five?

18 MS. LLOYD: They do, all five.

19 MADAM CHAIR: All right.

20 MS. LLOYD: Today we will be calling Mr.  
21 Southwind, Mr. Esquega, Mr. Teleki, Mr. Dockstater and  
22 Mr. Homenuck. It will be four presentations, it's four  
23 witness statements.

24 Mr. Homenuck and Mr. Dockstater jointly  
25 filed witness statements, so four -- we'll be calling

1 witnesses related to four different witness statements  
2 which we filed in our set of statements.

3 MADAM CHAIR: All right. Then you will  
4 be bringing witness statements No. 19 -- I'm looking at  
5 your table of contents.

6 MS. LLOYD: Mm-hmm.

7 MADAM CHAIR: Which numbers will the  
8 evidence -- MS. LLOYD: We'll be calling Mr. Esquega  
9 is No. 14.

10 MADAM CHAIR: Mm-hmm.

11 MS. LLOYD: Mr. Southwind is in witness  
12 statement No. 13, Mr. Teleki is witness statement No.  
13 9, Mr. Homenuck and Mr. Dockstater, witness statement  
14 No. 19.

15 MADAM CHAIR: Okay, good. Well, as you  
16 know, the Board has read very carefully their written  
17 evidence and getting in front of us what the witnesses  
18 wish to say orally is a pretty simple matter, and  
19 certainly the witnesses are free to touch on the  
20 important points of what they want to say to us. And I  
21 don't imagine there will be very much cross-examination  
22 from the experience we had last week anyway.

23 MS. LLOYD: Thank you. We'll do our best  
24 in that and ask your indulgence when our lack of legal  
25 expertise is most obvious. I believe we're going to



1 begin with --

2 - ---Discussion off the record

3 MS. LLOYD: We are calling first Mr. Levi  
4 Southwind. Levi, would you like to be sworn or affirm  
5 your evidence. It means you can swear on the Bible or  
6 you can make an oath of affirmation saying that you  
7 will --

8 MR. SOUTHWIND: Affirmation is fine.

9 MADAM CHAIR: All right, thank you, Mr.  
10 Southwind.

11 LEVI SOUTHWIND, Affirmed

12 MADAM CHAIR: Thank you, sir.

13 DIRECT EXAMINATION BY MS. LLOYD:

14 Q. Levi, just as a manner of  
15 introduction, it says in your witness statement that  
16 you are band member of Sagamok Anishinabek and you  
17 reside on Sagamok lands with the your wife and daughter  
18 and you're owner and operator of Tupnikaning  
19 Enterprises; is that correct?

20 A. Yes, it is.

21 Q. I think where we would like to focus  
22 first is on some of the problems that you've addressed  
23 or identified in your witness statement specific to  
24 difficulties that you have had as an Anishinabek  
25 person, as an Anishinabek operator in obtaining

1 allocations. Perhaps if we could begin that by hearing  
2 from you some background, what your experience is as a  
3 timber harvester or as a bush operator.

4 A. Well, I haven't been in the business  
5 that long. I started really actually doing that as my  
6 only source of living last September and one of my  
7 objectives is to obtain my own licence cutting area and  
8 I've been to the local Ministry of Natural Resources in  
9 Espanola a couple of times in an attempt to try to get  
10 any kind of cutting area, whether it is for stovewood,  
11 just to get my foot in the door and then maybe perhaps  
12 get to a cutting area that I could have more access to  
13 cutting wood to supply pulpwood, sawlogs or hardwood or  
14 veneer, various. There's just nothing available now,  
15 and that's -- I haven't had that much luck with it.

16 Q. So have you had a particular  
17 experience or have you identified a particular obstacle  
18 to you as an Anishinabek person in obtaining those  
19 licences which you seek?

20 A. Well, I worked for our reserve back  
21 in the early 70s and at that time in our area most of  
22 our band members, you know, quite a few of them have  
23 worked in the bush in pulpwood and different aspects of  
24 logging and we have always cut off our own land and  
25 there comes a time when you have to look for additional



1 resources.

2                   And we did get some Crown area for the  
3 reserve, I believe at the time it was around an annual  
4 cut about around -- it was less than a thousand cords,  
5 at that time it was measured in cords, and I was  
6 involved with our chief there to try and attempt to get  
7 more cutting areas and we weren't able to get anything  
8 through the regular civil service channels, we had to  
9 come to Toronto here to meet with - I don't Somebody  
10 recall who the representative in parliament and  
11 legislature was at the time - but through that process  
12 we were able to acquire additional cutting areas and  
13 that was the only way we were able to get that.

14                   And at the time we had four band members  
15 owned skidders and we needed more areas to cut and this  
16 was the only way. And I think -- well now, it's a  
17 little bit different, the band, our reserve has a  
18 cutting area but then we're considered as a group so,  
19 you know, that's -- I would like to have my own cutting  
20 area and run my operation as a business and not work as  
21 a jobber under the current situation, I would like to  
22 do a little more.

23                   Q. And is it your impression that there  
24 are areas that exist for you as a small operator, as a  
25 Native person that would not be there for non-Native

1 people?

2 A. Well, just -- well, from my own  
3 experience, I guess, yeah, you know, there's -- there  
4 would be, I guess, from my own -- I guess it's biased,  
5 when I talk about the relationships between the  
6 provincial government and the federal government and  
7 the Native people in general, there seems to be - you  
8 know, just give us enough to keep us satisfied so we  
9 don't make too much noise - to be favoritism or  
10 prejudiced towards giving it to other people than to  
11 Native people.

12 And when the land is, you know, cutting  
13 rights are given out we just -- we're just classified  
14 as a group rather than as individual entrepreneurs,  
15 whereas there's I believe around - I didn't count  
16 them - I guess about 15 to 20 different small pulpwood  
17 companies, you know, like people who have their own  
18 cutting areas and that includes Sagamok in those  
19 numbers, and I don't know how many people is involved  
20 in that industry but it's a fair chunk of the  
21 employment in our area for Native and non-Native.

22 Q. You make a number of recommendations  
23 for the Ministry and some of these are very relevant to  
24 their planning processes. Could you describe -- make  
25 some of those recommendations for us again, or can you

1 identify for us particular steps which the Ministry  
2 should be taking in your opinion to better the timber  
3 management and the allocations process?

4 A. Well, I think that, you know, at  
5 least I tend to consider, you know, the environment as  
6 something that we have to get along with and that we  
7 should certainly have more of an input into how the  
8 natural resources are managed respecting, you know, our  
9 Treaty rights and our ceremonies and of course to get a  
10 fair share of, you know, the economic enterprises that  
11 are taken from the harvesting of the forestry, or  
12 whether it's other mineral resources or whatever it is.

13 We can't do any more hunting, even our  
14 trap -- you know, when the people are getting a  
15 trapping permit now it's just given to the band and  
16 they expect anybody who wants to trap has to trap under  
17 the same licence.

18 You know, the same way with fishing, give  
19 us a fishing licence and they give it to one or two  
20 people and they expect that everybody that wants to  
21 fish on a commercial basis expect to thrive on that one  
22 licence or two licences and with a quota that doesn't  
23 even support one going concern, you know, that would be  
24 seen across the board.

25 Q. You talk about MNR's trust



1 responsibility to First Nations and how that trust  
2 responsibility needs to more adequately recognize  
3 Treaty rights. Are there some specific examples you  
4 can give for us about how that trust responsibility  
5 should show itself in, for example, the allocation of  
6 timber?

7 Do you think that's a place that that  
8 trust responsibility should have an effect?

9 A. Well, I really don't think the  
10 province has given -- accepted that responsibility, it  
11 has just sort of taken the view that the federal  
12 government is the only one that's responsible through  
13 the Department of Indian Affairs and any time that we  
14 want something, you know, to participate in the natural  
15 resource economy they tell us, or they administrate it  
16 through, it's up to the Department of Indian Affairs to  
17 live up to those trust responsibilities, and in that  
18 end the federal government has not either respected the  
19 Treaty rights.

20 Q. So is there a specific role for that  
21 in, say, allocations or in government to government  
22 relations to play in timber allocations?

23 A. Well, I think there is, you know, a  
24 specific role and more and more there's a lot of --  
25 there's quite a few things, I guess, going on at the

1 provincial and federal levels that would be directed  
2 toward cooperation between the federal government,  
3 provincial government and Native people and, you know,  
4 it's good, things are going on in that direction,  
5 it's -- we just need to work together and understand  
6 more and more, you know.

7 I guess the provincial government, as  
8 well as the federal government, needs to learn some of  
9 our, you know, culture and things that we do, some of  
10 our practices and to respect those things and accept  
11 that, you know, and accept -- they have to take the  
12 responsibility too for that, to fulfill those  
13 obligations not only leave it to the federal  
14 government.

15 Q. And how would -- for example, you  
16 suggest that there be Anishinabek program managers  
17 throughout the region in each of the district offices.  
18 How would you see that being of assistance?

19 A. Well, that was just one area, an  
20 example that I was thinking about is trying to work  
21 together. I think, I guess in the area of education,  
22 we'd have more and more of a say in terms of getting  
23 our people to go to school and more going through high  
24 school and post secondary education, and I thought that  
25 if we took the same approach of having a policy

1 recognized by the federal and provincial government as  
2 well as developed within, you know, First Nations that  
3 at least we would be heading in the same direction.

4 And I guess I would call it a great  
5 learning enterprise or something like that, that we  
6 would learn each other's ways and start to respect  
7 those things. And I know there's a lot of things that  
8 go on in terms of the silviculture aspects and  
9 harvesting and that, you know. We need to learn those  
10 things too so that we can practise those things within  
11 our communities and, at the same time, I think that  
12 these things, the things that we do within our -- from  
13 our tradition need to be learned also by the non-Indian  
14 people that work in those sectors.

15 Q. And do you know if that's happening  
16 at all? For example, in the Northshore region are  
17 there any Indian people employed as program managers or  
18 as part of the planning team in the Northshore region  
19 that you're familiar with?

20 A. No, not within the Ministry of  
21 Natural Resources. I know that we just recently at the  
22 Tribal Council level have obtained forestry people, a  
23 Native technician and also a forester who is  
24 non-Indian, but that's a means to look at starting to  
25 practise forestry within our own communities and go on



1 the forest management plans and also to -- I've asked  
2 them myself to go over some property.

3 -- The only way I can get that is to buy it  
4 and I've asked them to cruise that and help me, and so  
5 I could learn off them how to determine what amount of  
6 resources I can harvest off of a particular piece of  
7 property.

8 So, yeah, there's some stuff going on,  
9 and I think -- I'm not certain where the funding is  
10 coming from, but I certainly think it would be some  
11 cooperation from the provincial level.

12 Q. Do you have anything you would like  
13 to add, anything else you would like to tell the panel  
14 today?

15 A. No, I just think that, you know, it's  
16 good that you give us the opportunity to present some  
17 views on this and, you know, I hope it's not just an  
18 exercise. We have gone through too many exercisess and  
19 we have never really taken any action from these  
20 things. So I just hope there's something real  
21 constructive that comes out of this whole thing.

22 MS. LLOYD: Thank you. Those are my  
23 questions.

24 - MADAM CHAIR: Thank you, Mr. Southwind.

25 Will there be any cross-examination?

1 Mr. Freidin.

2 MR. FREIDIN: Just a few questions.

3 CROSS-EXAMINATION BY MR. FREIDIN:

4 Q. Mr. Southwind, you indicated that  
5 that you had harvesting operations or timber operations  
6 operations on the reserve?

7 A. Yes.

8 Q. And were these band members who owned  
9 the skidders, were they using the skidders as part of  
10 that operation?

11 A. Yes.

12 Q. Were there any timber management  
13 plans prepared for any of that work that happened in  
14 the past?

15 A. Yeah. I think there have been a  
16 number of management plans prepared but, yeah.

17 Q. And this technician and the forester  
18 now that you say have come on the scene, are they going  
19 to be preparing plans for operations on the reserve; is  
20 that the idea?

21 A. Well, it depends on what each First  
22 Nation requires of these technicians. I know that they  
23 have been looking at the Sagamok forest management plan  
24 that was done in 1986 I believe and we're thinking --  
25 we're looking at updating that and to actually begin to

1 implement some of the things that are in there.

2 Q. All right. So these two individuals,  
3 the technician and the forester then have basically  
4 been retained by the Tribal Council and will be working  
5 for different First Nations?

6 A. Yes.

7 Q. Do you know what kind of skidders  
8 were used on the reserve for timber operations.

9 A. What do you mean, brand?

10 Q. How large? Were these large  
11 skidders?

12 A. Myself I have a C-4 tree farmer and a  
13 Cat-518.

14 Q. Okay.

15 A. And then there's other timberjacks  
16 230s, 350s.

17 Q. Are you aware as to whether or not  
18 persons other than yourself have approached the  
19 district for allocations?

20 A. No, I can't -- I don't think so.

21 Well, it's just because the way it is, they allocate  
22 one area and then, well, okay, we have to -- there's no  
23 use trying to, you know.

24 Q. Right. But when you indicated that  
25 you've had difficulties getting allocation because



1       you've been advised that the area has been fully taken  
2       up.

3                   A.   Yeah.

4                   Q.   But what I just want to know is  
5       whether, you know, whether people other than yourself  
6       have tried to get allocations but have been told the  
7       same thing?

8                   A.   I'm not really aware.

9                   Q.   You made a comment, you were talking  
10      about this trust responsibility and the relationships  
11      between the federal government and provincial  
12      government, et cetera. You made a comment, you said  
13      things are going along in the right direction, we have  
14      to work together more and more.

15                   When you say things are going along in  
16      the right direction, can you expand on that a little  
17      bit?

18                   A.   Well, with the self-government and,  
19      you know, the Province of Ontario signing a - I forget  
20      the name of the paper now - with the First Nations of  
21      Ontario to recognize, you know, inherent rights then,  
22      you know, those are some steps that are beginning to  
23      take place, and certainly we'd be looking at different  
24      areas of, you know, like forestry and, you know, how we  
25      can do things in a better and good way, I guess.

1 Q. Are you involved in any of those?  
2 Are you involved personally in any of those  
3 discussions?

4 A. No I'm -- I keep busy enough trying  
5 to make ends meet with the little forestry forest that  
6 I have to cut.

7 Q. All right.

8 A. On private lands.

9 MR. FREIDIN: Those are my questions,  
10 thank you.

11 MADAM CHAIR: Thank you, Mr. Freidin.

12 Thank you, Mr. Southwind. We appreciate  
13 you coming here today. Thank you.

14 MS. LLOYD: Our next witness will be Mr.  
15 Tim Esquega senior.

16 Tim, would you like to be sworn or  
17 affirmed to give your evidence?

18 MR. ESQUEGA: Affirmed.

19 TIM ESQUEGA, Affirmed

20 MADAM CHAIR: Thank you.

21 DIRECT EXAMINATION BY MS. LLOYD:

22 Q. Again, just by way of introduction, I  
23 understand that you're a member of the Gull Bay First  
24 Nations?

25 A. Yes, I am.

1 Q. And present of Kiashki River Native  
2 Development Incorporated?

3 A. Yes.

4 Q. Could you describe for us Kiashki Key  
5 River Development Incorporated or Incorporation, tell  
6 us something about your firm, how it works, its  
7 relationship to the community?

8 A. Well, the logging operation, how it  
9 started was it started in 1974 and how it started was  
10 seeing other people cutting wood in the boundaries of  
11 our reserve, and at the time at our community we didn't  
12 have any economic forests or work or anything going on  
13 in our community, so I was a chief at that time in 1974  
14 so I thought we should be doing that, you know, why do  
15 you people come up 130 miles to cut wood at our  
16 doorstep while we're living on welfare.

17 So we got our board -- I mean, our chief  
18 in council and wanted to start a logging operation  
19 somewhere around our area. And at that time there was  
20 a timber block being transferred from the Ministry to  
21 the company of Great Lakes, so they were in the process  
22 of doing that and that is how we got into this little  
23 40-square mile timber operation of Kiashki River.

24 When we first started it we called it the  
25 Gull Bay Development Corporation and we had it going



1 and in 1974 with the help of Professor John Blair who  
2 is a professional forester at Lakehead University, he  
3 was the one that kind of helped us out in getting  
4 the -- he is a technician and getting all the technical  
5 work done for us, he was hired by us.

6 Q. And what's the relationship of  
7 Kiashki River Development Incorporated to the community  
8 of Gull Bay, is there a relationship there?

9 A. Well, it started off with the Gull  
10 Bay Development Corporation in 1980, it was switched  
11 over to Kiashki. We had to take it from the chief in  
12 council in order to have continuity in this operation,  
13 take it from the political gain.

14 At one time it was looked after under the  
15 chief in council and when the chief in council are  
16 changed every two years then the whole thing would have  
17 to change again and there was no continuity, so the  
18 thing was falling apart. So in order for it to  
19 maintain continuity, we had to take it away from the  
20 political operation.

21 Q. And is there an economic  
22 relationship--

23 A. Yes.

24 Q. --between Kiashki River and Gull Bay?

25 A. Yes. People from the Gull Bay have

1 the first right to work on our operation. We have  
2 got -- right now we have got a commercial fishing  
3 licence, a 40-tonne licence that's tied in with the  
4 logging operation for the people on the reserve.

5 Q. And how is Kiashki River managed  
6 then, you say it used to be the chief in council and  
7 now it's quite separate. How is it managed?

8 A. It's managed by the members of the  
9 band. There's nine board of directors from the band  
10 from our reserve, two of them are councillors.

11 Q. Are they elected or appointed or...

12 A. They're -- yes, they're elected, yes.

13 Q. And can you tell us something about  
14 the harvest practices at Kiashki River?

15 A. We do some cutting there, we do  
16 cutting and we do some tree planting, we do some  
17 scarification, we look after all the -- we have got a  
18 regeneration agreement with the Ministry of Natural  
19 Resources. To we cone pick from there, we blueberry  
20 pick from there, we go hunting in there and that's what  
21 we do in our operation.

22 Q. And by your observation, is it your  
23 impression that your harvest practices, the harvest  
24 practices of Kiashki River are different than those of,  
25 say, other companies that you might have seen operating

1 in the area, or...

2 A. Yes. I have seen operators come into  
3 our area and cut out massive timber areas within a year  
4 or two and if they had the block that we're cutting  
5 they'd have been in there for two or three years and  
6 been gone, but we've been operating there since 1974  
7 and we're still operating in it.

8 Q. And what, in your opinion, makes your  
9 operations different from those of the other companies?  
10 What motivates that?

11 A. Well, I think it's we're proud in  
12 what we're doing, we don't operate like an ordinary  
13 logging operation. Our trap -- our hunters will go  
14 hunting in the spring, they will go and leave their --  
15 park their skidders and go trapping or do what they  
16 want to do, and then in the fall they will do the same  
17 and then after all that they would come back to work.

18 And we're not in there to kind of --  
19 well, it's very flexible to our way of life and it's  
20 not -- you know, we're cutting an allowable cut there  
21 to maintain -- for us to maintain to buy machinery.

22 We had to -- our operation was boosted up  
23 to our allowable cut but after we got going the  
24 allowable cut was dropped down. But we're in about  
25 eight or 9,000 cords, eight or 9,000 cords, somewhere



1 around there, is our allowable cut in that area.

2 Q. And how did you get your allocations.  
3 You said that at a certain point there was a  
4 negotiation with the MNR. How did you get your  
5 allocations?

6 A. Well, at that time we were -- I think  
7 we were making a lot of noise. We wanted to do some  
8 work, we wanted to start a logging operation and at  
9 first we had a pretty tough going at the beginning, a  
10 lot of people told us we were going to last two to  
11 three months and that was it.

12 But we wanted to -- and once we got -- we  
13 negotiated with other companies. At the beginning we  
14 never had any machinery. We negotiated with Abitibi in  
15 order for them -- to cut wood for them we had to borrow  
16 their skidders on a per cord basis in order for us to  
17 get started, and we worked under those conditions for  
18 two or three years, and then the company says they  
19 wanted their machines back, so by that time we got into  
20 the economic development funding program on the federal  
21 government program and buying our own machinery.

22 Q. So what kind of an agreement did you  
23 have in place when you began with the MNR and/or with  
24 the companies. You say had some agreements with the  
25 companies.

1                   A. From year to year. It was on a one  
2 year to year basis, we would go over and apply for the  
3 year and then the companies would give us a contract  
4 for the year. And now they've extended that to  
5 every -- you know, in their 20-year management plan we  
6 negotiate every five years now, but yet we still  
7 negotiate on a price, on a cord price each year, but  
8 the licence is in there for -- every five years they  
9 renew it.

10                   Q. So are all of your allocations  
11 through a third party agreement?

12                   A. Not on Kiashki, no.

13                   Q. All of your allocations are through  
14 an arrangement with the company?

15                   A. With the -- well, I don't know how we  
16 got the licence area. The licence area was turned to  
17 us, because there's no third party on our Kiashki area.  
18 How that happened it was -- on a third party agreement,  
19 you've got a third party agreement with Great Lakes,  
20 you've got -- they've got the first right of refusal on  
21 their timber.

22                   MR. MARTEL: But that's off the reserve.

23                   THE WITNESS: No, that's not --

24                   MR. FREIDIN: That's not on the Kiashki  
25 unit.

1 THE WITNESS: No. Kiashki is not on a  
2 reserve, it's on Crown lands.

3 MR. FREIDIN: Just if I might jump in,  
4 Kiashki is a management unit, a Crown management unit.

5 MR. MARTEL: Okay.

6 MADAM CHAIR: Excuse me. That's a  
7 40-square mile timber operation?

8 THE WITNESS: Yes.

9 MADAM CHAIR: Okay.

10 THE WITNESS: That's about 15 miles away  
11 from our reserve.

12 MS. LLOYD: Q. What would you like to  
13 see, what do you see as the future for Kiashki River,  
14 do you see an expansion or maintenance of the current  
15 level of operation?

16 A. I don't know. The way the economy is  
17 going right now it's just dying, it's just dying away.  
18 You know, the chipping is going into stream now,  
19 pulpwood is not being taken, the only thing that's  
20 being taken is logs. So the pulpwood business is  
21 changing.

22 In order for us to get into the system of  
23 chipping, we've got to buy a machine that's worth half  
24 a million dollars, and within a few years that's all  
25 that's going to be taken out from the bush now is



1 chips. They'll be chipping poplar, they'll be chipping  
2 spruce, jack pine, everything.

3 So there's no way in my mind that I can  
4 see that our operation is going to develop to a bigger  
5 operation, it's just going to gradually die out.

6 But the way we had started it, the way we  
7 had thought, you know, that there would be work there  
8 for a long time. You know, it's been 10 years now --  
9 10, 11-- I mean, 18 years, 20 years, pretty close to 20  
10 years now, and I don't see the way the timber business  
11 is going it's impossible to maintain that kind of  
12 operation.

13 Q. And how's your working relationship  
14 with the OMNR, with the Ministry of Natural Resources?

15 A. Really good, really good. We have  
16 done very -- a very good working relationship with the  
17 Ministry and the company people. We've earned  
18 credibility within the years that we've worked with  
19 them and within the structure of chief in council it's  
20 unbalanced at all times and the negotiation -- you'd be  
21 negotiating with people next year, you'd be negotiating  
22 with new faces.

23 So it's a total unbalanced type of -- and  
24 you cannot run a business under those kinds of  
25 conditions, there has got to be continuity and there is

1 got to be the same kind of people that's been doing the  
2 business in order to establish a working relationship  
3 with the outside world.

4 And the thing I feel about a Native  
5 operation, I think there should be more than one Native  
6 operations because when I first -- when I got out of  
7 council I wanted to start a logging operation, I  
8 couldn't, they told me there was an operation already,  
9 and yet there's 10, 15 different other French  
10 operations going on at the same time.

11 You know, I just can't see in my mind why  
12 am I treated different. You know, it should not be  
13 that way. I think an entrepreneur is a person that  
14 wants to do something for his life, like the gentleman  
15 that was talking here has to, you know, I've  
16 encountered those same problems he's talking about.

17 Q. Have you encountered them as Kiashki  
18 River Development Incorporated?

19 A. Yes. Well, I started that in '74 and  
20 six years I was chief and then I was booted out, some  
21 other chief got in and they -- the Ministry was in the  
22 process of taking the licence back. They were  
23 high-grading, outside people were coming in and  
24 cutting, and within the two years they got out, I got  
25 back in and the board of directors at that time wanted

1 to change it, to put it into -- instead of having it  
2 under the chief in council to have continuity in this  
3 business.

4 Q. What do you see in a general sense as  
5 being the barriers to Native people or Native  
6 entrepreneurs in establishing --

7 A. I think Native operations, isolated  
8 communities up the northern areas I think should have a  
9 radius of their areas to maintain an extraction of  
10 Timber, tourism, fishing anything to do with natural  
11 resources.

12 I think they should have that right  
13 instead of having a group, treating them as a group  
14 area, I think there should be people given that, given  
15 the area. Because some of these reserves are all cut  
16 out right to the boundary line by timber operators and,  
17 you know, and they've got nothing but stumps to look  
18 at, you know.

19 But I think in our area I feel that we  
20 are very proud in doing what we're doing, we are -- I  
21 think a Native has an insight feeling of looking after,  
22 you know, we're farming our timber operation with the  
23 style that we're doing, we're trying to farm it and  
24 maintain it so our grandchildren can continue working  
25 if there's logging operations in the future.

1 But if we're going to go out and follow  
2 the all-mighty dollar, then that's where it's going to  
3 end, you know.

4 Q. Do you have anything you would like  
5 to add. I don't have any more questions. If you would  
6 like to add a final point.

7 A. No. Like, the gentleman said here,  
8 you know, it's good to have sessions like this if we're  
9 going to have something come out of them.

10 I'm not a politician, I wouldn't like to  
11 kind of speak on behalf of the people, you know, I  
12 would like to -- I've supported people from our  
13 community and stuff like that.

14 But to maintain the logging operations  
15 it's getting harder and very hard to maintain now.

16 MS. LLOYD: Thank you. Those are all my  
17 questions.

18 MADAM CHAIR: Thank you.

19 Are there any questions for this witness?  
20 Mr. Cassidy?

21 MR. CASSIDY: Yes. Thank you, Madam  
22 Chair.

23 MADAM CHAIR: Mr. Cassidy, perhaps you'll  
24 introduce yourself for the witness.

25 MR. CASSIDY: Sure. I'm Paul Cassidy,



1 I'm counsel for the Ontario Forest Industries  
2 Association which is a collection of private companies,  
3 some of which you've mentioned today, Mr. Esquega.  
4 Abitibi Price is a member, as is Great Lakes, now known  
5 as Canadian Pacific Forest Products, I'm their lawyer.

6 CROSS-EXAMINATION BY MR. CASSIDY:

7 Q. I was just asking Ms. Lloyd if she  
8 could make available the interrogatory responses which  
9 are Exhibit 2180, Madam Chair. The reason I was asking  
10 asking for those to be handy is, I was looking at  
11 page --

12 MR. MARTEL: 2181.

13 MR. CASSIDY: 2180.

14 MADAM CHAIR: Which page are we on, Mr.  
15 Cassidy?

16 MR. CASSIDY: We'll be referring to page  
17 20 of Exhibit 2180, Madam Chair, and with respect to  
18 the witness statement, it's Exhibit 2179.

19 I'll be referring - though it may not be  
20 necessary for you to have it before you - to the report  
21 that is attached to Mr. Esquega's witness statement,  
22 the report by Professor Blair, and for reference I'll  
23 be referring to page 14 of that report.

24 Q. On that page, Mr. Esquega, page 14 of  
25 Mr. Blair's report in Exhibit 2179 attached to your

1 witness statement, there's a reference to the type of  
2 cutting that you do on your area, your 40-square mile  
3 area and he refers to it as a form of modified strip  
4 method of clearcutting.

5 And you'll recall I asked you in an  
6 interrogatory which is on page 20 of Exhibit 2180 if  
7 any of that area that was referred to by Professor  
8 Blair, in other words, any of the area in your  
9 40-square mile area, if any of that was planted as a  
10 form of regeneration with the seed or stock.

11 And in your answer on page 20 you said  
12 that all of the cut areas were replanted.

13 And I'm curious to know why, if you're  
14 carrying on modified strip cutting, that you did not  
15 rely on natural regeneration and instead planted the  
16 whole area?

17 A. Yeah. We planted all the areas that  
18 we cut out. We didn't -- the only -- we tried -- the  
19 only reason that we did that was, the only places where  
20 the regeneration would come up would be on the side of  
21 the roads. As they were halling the wood out, you  
22 know, the barks and stuff would grow on the side of the  
23 roads.

24 But the planting was -- would regenerate  
25 but it would take a longer period and the areas that we

1 planted in 1974 are about 14 feet -- 13, 14 feet high  
2 now, seedlings that were planted.

3 Q. So as I understand it then, even  
4 though you did strip cutting you were not content to  
5 rely on the natural regeneration that might occur, you  
6 instead replanted the whole area?

7 A. We waited -- I think we we waited, we  
8 didn't start right off the bat, we waited and then  
9 nothing came, so we kind of scarified the area and then  
10 planted it.

11 Q. Okay. And with respect to who you  
12 supply timber to, you were just talking with Ms. Lloyd  
13 in your evidence this morning that you have an eight to  
14 9,000 cord allocation or allowable cut.

15 A. Yes.

16 Q. Who are your buyers, like, who do you  
17 sell that to?

18 A. Great Lakes.

19 Q. Great Lakes?

20 A. Yeah.

21 Q. Which is now Canadian Pacific Forest  
22 Products?

23 A. Yes, and Great Lakes, and Northern  
24 Wood we sell logs.

25 Q. Northern Wood Preservers?

1 A. Abitibi.

2 Q. Abitibi-Price?

3 A. Yes, and Great West Timber.

4 Q. And Great West Timber?

5 A. Yes.

6 Q. And are these the people you have  
7 these five-year licences to supply.

8 A. No, just Great Lakes.

9 Q. I see.

10 A. Just Great Lakes.

11 Q. Are you familiar with an  
12 organization, and actually I think you answered this in  
13 an interrogatory, an organization known as Niigaani  
14 Enterprises Incorporated?

15 A. Yes, yes.

16 Q. And how are you familiar with that,  
17 have you been involved?

18 A. I am Niigaani Corporation.

19 Q. Are you the president of that?

20 A. President, yes.

21 Q. I see. And can you tell me what that  
22 company is, what it does?

23 A. It was -- it started off as a  
24 consulting logging operation for other bands, like,  
25 consulting operation, and then what happened was along



1 the way the allowable cut was dropped from Kiashki  
2 River, we were cutting 15 to 20,000 -- 25,000 cords on  
3 Kiashki, the allowable cut was too much. A third party  
4 agreement was made with Great Lakes and myself on  
5 Niigaani to cut whatever allowable cut that we had for  
6 Kiashki and whatever else we could cut on the outside.  
7 So a third party agreement was made between myself and  
8 Great Lakes.

9 Q. When you say yourself, you mean  
10 Niigaani and Great Lakes?

11 A. Yes.

12 Q. So does Niigaani carry on harvesting  
13 operations itself?

14 A. Yes, it does.

15 Q. Do you employ people to do that?

16 A. It does the same thing, same system,  
17 yeah.

18 Q. I understand that Niigaani has chosen  
19 to use full-tree harvesting as a harvesting method; is  
20 that correct?

21 A. Yes.

22 Q. Why? Why have you use the full-tree  
23 harvesting?

24 A. Full-tree harvesting because they --  
25 the system that we have on Kiashki, Great Lakes is the

1 one that tells you how to cut wood on their reserve --  
2 on their area.

3 Q. Yes. And are you in disagreement  
4 with that method?

5 A. There is block areas that moose  
6 corridors and stuff like that are place.

7 Q. Are left?

8 A. Are left, yeah.

9 Q. Are you in disagreement with using  
10 the full-tree harvesting method?

11 A. What do you mean?

12 Q. I mean, do you see anything wrong  
13 with that?

14 A. Full-tree?

15 Q. Yes.

16 A. No, I don't.

17 Q. Can I ask you about Niigaani. Does  
18 Abitibi-Price have any involvement in Niigaani?

19 A. Yes.

20 Q. What is that involvement?

21 A. Abitibi?

22 Q. Yes.

23 A. In cutting in their areas.

24 Q. You're cutting in their areas as  
25 well?

1 A. Yes, yes.

2 Q. I see. Do they provide you with the  
3 any management services?

4 A. No, they don't, no.

5 Q. Did they assist you in any of your  
6 deals with the MNR?

7 A. No, they don't.

8 Q. Okay. So you deal with the MNR  
9 directly--

10 A. Right.

11 Q. --in those circumstances. Now, I  
12 would like to just clear something up. The Kiashki  
13 Corporation, does it turn a profit?

14 A. It does, yes.

15 Q. That profit is, in fact, turned over  
16 to the community, and I think you answered an  
17 interrogatory about the types of things it does with  
18 that profit, that's the donation of turkeys and  
19 donations to schools for student outings, donate  
20 services of heavy machinery, that's what you do with  
21 your profits?

22 A. Yes, yes.

23 Q. In your witness statement you refer  
24 to it as a non-profit logging firm, but in fact it does  
25 turn a profit and you use it for those--

1 A. For the communities.

2 Q. --for those communities?

3 A. Yes.

4 Q. Right. I've read this report that  
5 Professor Blair indicated and he referred to Domtar  
6 North -- or, I'm sorry, Northern Wood Preservers and  
7 Abitibi as assisting your company Kiashki, I should  
8 say--

9 A. Yes.

10 Q. --Development Corporation in the  
11 course of getting set up, providing equipment and  
12 providing allocations?

13 A. Yes, from the beginning.

14 Q. Right. And I note that he, in fact,  
15 in his report which is attached to your witness  
16 statement, Exhibit 2180 -- sorry, 2179, I note that he  
17 acknowledges this assistance.

18 And I take it that you agree with that  
19 acknowledgement, that it was valuable assistance?

20 A. Yes, it was.

21 Q. By all of those companies?

22 A. Yes.

23 MR. CASSIDY: Those are my questions,  
24 Madam Chair. Thank you very much.

25 MADAM CHAIR: Thank you, Mr. Cassidy.



1 Any other questions?

2 MR. FREIDIN: Just a couple, unless Ms.  
3 Gillespie does.

4 MS. GILLESPIE: I have no questions.

5 CROSS-EXAMINATION BY MR. FREIDIN:

6 Q. Mr. Esquega, you made the comment  
7 that there was a need for continuity, that there was a  
8 problem, that things would change when the chief and  
9 band council would change.

10 Would you just sort of expand on what you  
11 mean by continuity and why it was important to have  
12 that continuity?

13 A. Well, in a small community it's, you  
14 know, politics has been -- well, has been rough and  
15 every little community is like that. And when there is  
16 an election what happened to us, I can tell you what  
17 happened to us is.

18 When we started a logging operation, it  
19 took -- we were in operation for six years and what  
20 happened was we accumulated some profits and stuff like  
21 that , and spent money on the reserve, and then the  
22 election came around on the fourth term and the new  
23 chief in council and -- a new chief in council came on  
24 and it was elected by the democratic system, you know,  
25 bigger families, bigger votes and that's how it went,

1 and then they won the election and everything, the  
2 logging operation went to the chief in council, and --

3 Q. As a result of the change in the  
4 council, was there a change in the direction that the  
5 logging company was going in, or was there a change in  
6 terms of whether they wanted to log at all?

7 A. Well, the direction -- they were  
8 logging, yes, there was outside people logging. It  
9 wasn't -- it was intended for people to work from the  
10 community, Native people to work and people came in  
11 from the outside to high-grade the area that we had  
12 cut.

13 Q. All right. So that was the example  
14 or an example of problems you saw, was that a change in  
15 the -- before it was the community that was doing the  
16 logging operation, and the new council decided to let  
17 other people come in and log?

18 A. Yes, right.

19 Q. And as a result there was a different  
20 approach taken to how the logging should occur?

21 A. That's right, yes.

22 Q. And you saw that that change in  
23 approach, at least in that particular case --

24 A. Well, that is one way of looking at  
25 it, one way of looking at it, and then there was a new

1 group of people. All the people that were working in  
2 there for six years have been booted out because, you  
3 know, a new group of people coming in that didn't know  
4 anything about logging or what spruce and jack pine  
5 were and stuff like that, you know, and the  
6 administration went -- you know, it didn't work out.

7 Q. All right. You see that as important  
8 that once you sort of set off on a certain management  
9 approach that that general approach should be carried  
10 on a systematic basis over time?

11 A. Well, I think there should be some  
12 negotiation factors and meetings with the companies and  
13 MNR and going through with the system that the MNR has  
14 in place. And if -- you know, if they're going to be  
15 able to maintain a successful logging operation, then  
16 there's rules and regulations that you have to follow.

17 Q. Right. I understand on the Kiashki,  
18 first of all, can you confirm for me it's a Crown  
19 management unit.

20 A. Mm-hmm.

21 Q. The answer is yes?

22 A. Yes.

23 Q. And I understand that a timber  
24 management plan is prepared for that unit just like it  
25 is for all other units?

1                   A. Yeah. Yeah, Jeff Patterson is our  
2 person, our technician that looks after that.

3                   Q. And Jeff Patterson, is he employed by  
4 the development corporation or is he an MNR employee?

5                   A. He's from us, he's employed by us.

6                   Q. All right. And he prepares a plan in  
7 accordance with the Ministry's timber management  
8 planning process?

9                   A. That's right.

10                  Q. And it goes through an approval  
11 process where it's approved approved by the Ministry of  
12 Natural Resources just like timber management plans--

13                  A. Everything else.

14                  Q. --for everybody?

15                  A. That's right, everybody else.

16                  Q. And I've been corrected, I think  
17 perhaps it's more correctly described -- the Kiashki  
18 unit is more properly described as a company management  
19 unit?

20                  A. A company.

21                  Q. A company management unit as opposed  
22 to Crown management unit.

23                  A. Yeah. Well, I guess so, yeah.

24                  Q. All right. And is your  
25 representative involved in preparing that plan either



1 by himself or in conjunction with the Ministry?

2 A. With the Ministry.

3 Q. They work together?

4 A. Yes.

5 MR. FREIDIN: I think those are my  
6 questions, Madam Chair. Thank you.

7 MADAM CHAIR: Thank you, Mr. Freidin.

8 And thank you very much. I think we're  
9 finished now, Mr. Esquega. Thank you very much for  
10 coming down today.

11 Ms. Lloyd.

12 MS. LLOYD: The next witness is Mr. Geza  
13 Teleki. Witness statement No. 9--

14 MADAM CHAIR: Thank you.

15 MS. LLOYD: --we will be referring to.  
16 Mr. Teleki, would you like to be sworn or affirmed.

17 MR. TELEKI: Affirmed is fine. Thank  
18 you.

19 MADAM CHAIR: Hello, Mr. Teleki.

20 MR. TELEKI: Hello.

21 GEZA TELEKI, Affirmed

22 DIRECT EXAMINATION BY MS. LLOYD:

23 Q. I wonder if we could begin by yo  
24 describing for the Board your present employment and  
25 your areas of expertise?

1                   A. Fine. My present employment is I  
2     have a small environmental consulting firm since 1990  
3     focusing on both Ontario, other Canadian and  
4     international environmental problems, mostly in the  
5     strategic planning in the broad context of environment  
6     ecological problems.

7                   Prior to that -- well, maybe I should  
8     start this way, that my background is about 22 years of  
9     environmental work beginning as a scientist, biologist  
10    with the Government of Ontario, and then in 1980 I  
11    did -- '82 I believe it was, I joined an engineering  
12    consulting firm and ran the environmental division of  
13    that firm for about nine or 10 years -- nine years I  
14    think it was.

15                  In that capacity the most relevant to  
16    this situation comes forward in that I conducted and  
17    was involved in at least 20 class EAs or more than that  
18    really and a number of individual EAs in Ontario. I  
19    was involved in federal environmental assessments as  
20    well.

21                  Most recently a relevant experience to  
22    this -- to today is I led the team that developed what  
23    was called the Parent Class EA for the Ministry of  
24    Government Services in '91 which required a  
25    comprehensive look at all existing class EAs and a

1 consultation with most of the government ministries  
2 including MNR.

3 So I say this as a backdrop to my, I  
4 guess, understanding of the class EA process and the  
5 Environmental Assessment Act as a non-lawyer really.  
6 So that in essence is my background. Now -- go ahead.

7 Q. Thank you. I wonder, your witness  
8 statement really focuses on the Red Squirrel Road, the  
9 environmental assessment of the Red Squirrel Road and  
10 Pine Torch Corridor extension.

11 I wonder if you could describe for us  
12 your experience in the development of that  
13 environmental assessment document and the environmental  
14 assessment process related to that.

15 A. Okay. While with the Delcan  
16 Corporation, an engineering consulting firm, I was the  
17 project manager for the Red Squirrel/Pine Torch EA and  
18 was involved for, I believe it was about a year, a year  
19 and some, from the interview stage of the proposal  
20 called through the initial -- the preparations of the  
21 initial drafts of the EA document, the individual EA  
22 document.

23 So I had the day-to-day experience with  
24 all players concerned, MNR, Ministry of Environment,  
25 there was a steering committee of various other

1 agencies, the public that was consulted including the  
2 industries and and the public at large.

3 Q. And could you describe for us the  
4 final product and the steps leading up to that product  
5 and whereby your opinion the flaws lay both in the  
6 process leading up to the environmental assessment  
7 document and then in the eventual document itself.

8 A. Okay. Maybe I could answer that by  
9 first addressing briefly the purpose of discussing the  
10 Red Squirrel Road EA which was some years ago and its  
11 link to what we're doing -- what this hearing is all  
12 about.

13 I suppose in simple terms the Red  
14 Squirrel is a model really of how, in my view, not to  
15 proceed with an environmental assessment. And in my  
16 statement I've listed a number of issues that I think  
17 that if applied in the case of the Timber Management  
18 Class EA they could easily degrade, I guess, or water  
19 down the Class EA approach.

20 So to get back to the question of my  
21 experience with this particular EA, initially -- the  
22 first issue relates to design, the design of the EA  
23 itself and specifically I refer to the time frame that  
24 was planned at the start in the terms of reference and  
25 it was approximately, as I remember it, a six to



1 nine-month time frame which was very ambitious to say  
2 the least and for a full environmental assessment with  
3 the background of the Red Squirrel it immediately  
4 created controversy problems.

5           You may not be aware, but the Red  
6 Squirrel project was initially a kind of a Class EA  
7 under a related Class EA procedure and there were -- in  
8 my view, as I stated in the statement, there probably  
9 was a misreading or a misinterpretation of the sequence  
10 of events to take place and clearing was initiated  
11 before public consultation was to take place, so there  
12 was already a history of controversy when the  
13 individual EA was initiated by MNR.

14           So the design, the short time frame was  
15 at first I think an issue leading to the length and  
16 problems associated with this project over time.

17           The second issue dealt with or deals with  
18 the narrowness of the scope of the EA in that in their  
19 definition of the undertaking the Ministry - I don't  
20 know exactly the wording, I don't remember exactly the  
21 wording - but the key feature is that it was dealing  
22 with only the primary road alignment essentially, so  
23 that any kind of indirect effect or secondary effect  
24 such as the secondary roads, the tertiary roads, the  
25 timber harvesting, that was excluded from

1 consideration.

2                   The third point, a third issue kind of  
3 flows from having a narrowed down scope or it may be  
4 termed a kind of artificial scope if you look at it  
5 from the point of view of, I suppose, an ecologist as I  
6 am who looks at things in the context of what  
7 cause/effect relationships are.

8                   So the third point is the inadequate  
9 description of the effects and that, again, is due to  
10 the narrowness of the scope. If you limit what you're  
11 allowed to look at to the right-of-way, let's say, the  
12 primary road right-of-way, then clearly you're not  
13 going to be able to examine the total picture.  
14 Although I must add in this case the water component,  
15 the aquatic component, there was scope for looking at  
16 the downstream effects of, let's say, siltation from a  
17 potential road being built.

18                   Fourth. The fourth issue that emerged  
19 is, again, related to the narrow scope, is the loss of  
20 biophysical information. Again, you can't really  
21 address all the environmental implications with a scope  
22 that has been narrowed down to deal with only a  
23 right-of-way, as I understood it.

24                   And finally - and this relates back to my  
25 second point with the narrow scope and not inclusion of

1 secondary, tertiary effects and timber harvesting - and  
2 it's the reliance on other documents to, I suppose,  
3 justify or to assign what I consider to be fairly  
4 significant elements of the EA to other areas.

5 And what I mean by that is in the case of  
6 the Red Squirrel the Ministry determined or ruled that  
7 timber harvesting and the secondary, tertiary road  
8 issues were addressed in the timber management planning  
9 documentation, so that was going to be -- that was a  
10 separate issue and would not be subject to this  
11 individual EA, although in the latter consultation  
12 sessions I remember that the timber management planning  
13 procedure there were a number of displays that showed  
14 what the procedure was about and provided some mapping  
15 as well of that.

16 So to get back to my original  
17 statement -- in conclusion here, to get back to my  
18 original statement, why review this EA in the context  
19 of the hearing today, again, I state that these five  
20 issues are ones which can easily slip into a Class EA  
21 and can water down the approach.

22 Q. Thank you. I would like to come back  
23 to a few of the points you made and hear a little more  
24 from you on that.

25 You cited the narrowness of the scope,

1 the exclusion of everything but the primary road. Can  
2 you do two things for us: One is, tell us quite  
3 clearly what was included and then give us some  
4 indication what, by your judgment, should have been  
5 included which was not. You mentioned one or two  
6 things, but I wonder if you could expand on that.

7 A. Mm-hmm. Well, there's really not  
8 much more to say other than that what was included, my  
9 understanding was the -- essentially it was a primary  
10 access road, it was the primary access road, the  
11 right-of-way of the primary access road with --  
12 additionally the stream crossings were -- it was beyond  
13 the right-of-way. So my understanding was the scope  
14 and impacts were limited to that area.

15 Whereas what I think should be included  
16 in an EA of this type is all those activities that have  
17 a significant impact direct or indirect on the  
18 environment that are directly related to the purpose of  
19 the EA.

20 So that the secondary roads, the tertiary  
21 roads and the timber harvesting are part and parcel of  
22 this EA even though, in the strictest sense, an access  
23 road, if you look at it in the very narrow frame, an  
24 -access road, okay, it is for trucks and vehicles to get  
25 from point A to point B, but I don't believe that --



1 certainly that's not how I interpret the EA Act in  
2 those sections where it speaks to direct and indirect  
3 effects and the effects that are reasonable -- that are  
4 reasonably expected to occur. So that's...

5 Q. Was there any examination of the  
6 effect of road linkages of the Red Squirrel Road  
7 extension linking to other roads in that area, was  
8 there an examination of that?

9 A. Well, yes. The EA process included  
10 an examination of alternatives to the -- alternatives  
11 to the road, and so that included among other things  
12 various road linkages, alternative access points, it  
13 included alternative -- the null hypothesis for  
14 example, not having any access road. So, yes, it did  
15 include that kind of an analysis, yeah.

16 Q. And was there then an examination of  
17 the secondary effects of those kinds of linkages?

18 A. It was -- again, it was relatively  
19 minimal is my recollection, yeah.

20 Q. And was there any examination within  
21 the EA of the effects of the road placement on  
22 traditional uses of aboriginal peoples' traditional  
23 uses in that area?

24 A. I don't believe there was, no. I  
25 don't recall exactly, but I don't believe there was.

1                   Q. I wonder if you could -- you  
2 mentioned that one of the flaws was inadequate  
3 description of the effects. What was the nature of  
4 that inadequacy and...

5                   A. Okay. Again, it relates to the scope  
6 of the work, scope of the study. If one is confined --  
7 by example, if one is confined to looking at a  
8 right-of-way when the effects, the major effects,  
9 environmental effects are the secondary, tertiary and  
10 timber harvesting operations from the biophysical area  
11 let's say, if you're restricted -- if you're prevented  
12 from looking at those as part of the EA, then the  
13 effects you can describe are limited.

14                   So it's all -- it's a link, it's a kind  
15 of ripple effect that takes place if you narrow the  
16 scope.

17                   Q. And was there a discussion between  
18 you and your firm and the proponent as to the  
19 difficulties that this narrowness of scope, or the  
20 deficiency of this narrowness of scope would produce or  
21 would result in?

22                   A. Yes, there was.

23                   Q. Could you describe those for us at  
24 all?

25                   A. Well, sure. The discussion, the

1 record is there, there are letters back and forth  
2 between the Ministry and my former firm where we  
3 describe our concerns and the Ministry responded with  
4 the statements that our concerns were not well founded  
5 because of the the definition of the undertaking and  
6 that basically our job was to get on with the EA and  
7 that, in general, we were to proceed.

8 Q. So it's fair to say then that the  
9 difference of opinion was clearly understood by the  
10 OMNR as the proponent?

11 A. Oh, I think the difference is  
12 understood, yes, yeah.

13 Q. Did those same differences that were  
14 expressed by your firm, were they expressed by the  
15 public at any point? Is it your assessment that those  
16 were concerns that were shared by the public?

17 A. I would rather not put words in the  
18 mouths of the public.

19 Q. Just by recollection from public  
20 input though?

21 A. Well, certainly the public that I was  
22 involved with - and I conducted the public consultation  
23 sessions for two series of public consultations - and  
24 those concerns were expressed, not exactly in the same  
25 way, but they were expressed, that concern over things

1       like tertiary roads, girdling previously inaccessible  
2       lakes, things like that, that were brought to mind.

3               So, yes, I suppose that they were  
4       certainly based on the sessions that I was specifically  
5       involved in. I can say, yes, yeah.

6               Q. And what was the process used by the  
7       proponent for resolving those conflicts or those  
8       differences of opinion?

9               A. Differences of opinion with whom?

10              Q. Defining the scope, with both the  
11       public, as I understand correctly about the public and  
12       your firm shared a difference of opinion with the  
13       proponent in terms of the scope. What was the...

14              A. Well, I think there were  
15       consultations, consultations held I would judge. You  
16       see, our involvement in the process ended with, I  
17       believe it was the second draft of the document, and  
18       after that point - I think the second or third draft,  
19       I'm not, again this is five years ago this point - but  
20       our involvement ended so that we were not -- we were  
21       not involved beyond that -- beyond the...

22              There was still review of the draft and  
23       final draft and further consultation, as I understood,  
24       from the media that took place.

25              MR. MARTEL: How did your involvement



1 end?

2 THE WITNESS: Pardon me?

3 MR. MARTEL: How did your involvement  
4 end? Why was your involvement in the process  
5 terminated?

6 THE WITNESS: It was terminated because  
7 the difference of opinion -- I suppose the difference  
8 of opinion could not be resolved and it was terminated.

9 MS. LLOYD: Q. So are you familiar with  
10 how the EA document was completed then, or do you have  
11 any familiarity with that, was that done in-house  
12 internally by the proponent?

13 A. I'm not familiar with that.

14 Q. Okay. And are you familiar with any  
15 of the events related to that road construction since  
16 then, subsequent construction blockades, et cetera?

17 A. Only from what I hear in the media.

18 Q. What -- by your assessment, is there  
19 a -- what direction do you believe this case indication  
20 study or case, in point lends to, for example, this  
21 panel's considerations?

22 A. Well, if the Class EA procedure is  
23 going to be used with the timber management timber  
24 harvesting activity that is going to go forward, I  
25 would suggest that the lessons from the Red Squirrel

1 are appropriate and that three things need to be  
2 considered carefully and applied diligently in this  
3 Class EA process.

4 And the first one is the timing and the  
5 allowing plenty of time for consultation for this  
6 complex -- the complex issues to be brought forward and  
7 particularly with vis-a-vis the public in allowing the  
8 interaction with the public, with the technical  
9 experts, the administrators, et cetera.

10 Secondly is to permit flexibility  
11 vis-a-vis the scope of the EA, not to fix, not to fix  
12 the scope, make it too narrow.

13 Thirdly, is not to exclude from the scope  
14 of the work elements that are key through the citing of  
15 other documentation -- other documents through the use  
16 of other policies and other procedures that, to a  
17 certain extent, disaggregate the problem, the issues at  
18 hand.

19 And, unfortunately, these characteristics  
20 that I've met are not consistent with the practice of  
21 Class EAs. By its nature the Class EA tends to define  
22 the scope, tends to -- it deals with projects that are  
23 similar in nature, that have minimal kind of effects  
24 that are well understood, and this is a definition that  
25 comes from the recent Environmental Assessment Document

1 towards improving the environmental assessment program  
2 in Ontario, where there's a discussion of Class EAs and  
3 that definition is one that is not a law, but it is  
4 certainly one that has been practised in a way  
5 differentiating Class EAs from individual EAs.

6 So, in conclusion, what I'm saying is  
7 that the characteristics I describe move away from the  
8 Class EA rather than towards it, so that it's doubly  
9 important that in this situation that these three --  
10 that the timing, the flexibility of scope and not us --  
11 not excluding scope of work by citing that this is  
12 covered under another document in another -- under  
13 another regulation something like that.

14 Q. Do you have anything you would like  
15 to add?

16 A. No.

17 MS. LLOYD: Okay. That's all my  
18 questions. Thank you.

19 MADAM CHAIR: We are going to take our  
20 afternoon break shortly. Will there be very much  
21 cross-examination?

22 Will you be cross-examining, Ms.  
23 Gillespie?

24 MS. GILLESPIE: No.

25 MADAM CHAIR: Mr. Freidin?

1 MR. FREIDIN: I will be. I don't know, I  
2 may be 10 to 15 minutes. I'm not too sure. Maybe 20  
3 minutes.

4 MADAM CHAIR: We will take our afternoon  
5 break now and we will be back in 20 minutes.

6 ---Recess at 2:00 p.m.

7 ---On resuming at 2:20 p.m.

8 MADAM CHAIR: Please be seated.

9 Are we waiting for Ms. Lloyd?

10 ---Discussion off the record

11 MADAM CHAIR: All right. We will start  
12 with the cross-examination, then.

13 Mr. Freidin.

14 CROSS-EXAMINATION BY MR. FREIDIN:

15 Q. Mr. Teleki, you indicated that you  
16 reviewed a number of class environmental assessments in  
17 recent years as part of your work.

18 Is it fair to say that the terms and  
19 conditions which have been proposed as part of the  
20 approval of those class of undertakings differ from one  
21 class of undertaking to the another?

22 A. If I understand you, differ -- could  
23 you ask that again, I'm not sure exactly what you're  
24 asking, please.

25 Q. All right. The class environmental



1 assessments that you looked at would have been dealing  
2 with different subject matters?

3 A. Yes.

4 Q. And as a result of the subject  
5 matters being different, the undertakings being  
6 different, the terms or conditions which were attached  
7 to the approval wouldn't be the same, they would be  
8 different and be reflective of the actual undertaking  
9 being discussed?

10 A. Yes.

11 Q. And the decision as to what a  
12 reasonable term and condition would be -- we're talking  
13 about approval for a class of undertakings.

14 A. Yes.

15 Q. And you've indicated that you would  
16 have to have reasonable terms and conditions.

17 A. Did I say that, reasonable terms and  
18 conditions?

19 Q. All right. Let's just say would you  
20 agree that you have to have terms and conditions which  
21 were reasonable?

22 A. Yes.

23 Q. And would you agree that an important  
24 consideration in determining what is reasonable or not  
25 would be the evidence which was elicited in relation to

1 that undertaking; in other words, what I'm getting at,  
2 it's not so much a matter of pure theory as it is the  
3 application of the evidence to the undertaking when  
4 you're trying to decide what's reasonable to be imposed  
5 and what's not?

6 A. Okay. Well, I agree -- I agree in  
7 principle with what you're saying. If I might  
8 elaborate on that a bit.

9 Reasonable -- I can respond to  
10 reasonableness only in terms of my area of expertise  
11 which is basically the biophysical environment,  
12 ecological principles, et cetera, and there is a  
13 reasonableness from perspective goes beyond, I suppose,  
14 a non-environmental definition.

15 In other words, if you talk about a  
16 right-of-way and restricting your analysis to that  
17 right-of-way, that to me is an incomplete definition  
18 and it does not look at the picture from the  
19 perspective of what fairly well-known kind of linkages  
20 there might be, and that's the extent to which this  
21 fairly well-known goes. Beyond that it's a very --  
22 it's very project specific.

23 Q. Okay. Now, you gave some evidence  
24 regarding the Red Squirrel Road, and am I correct that  
25 the undertaking in that particular environmental

1 assessment was the construction of the road?

2 A. Yes.

3 Q. And I think one of your -- perhaps if  
4 I could sort of capsulize one of your criticisms, was  
5 that you felt that the undertaking should have been  
6 broader, that in fact it should have been timber  
7 management, it should have been all the things that  
8 gets dealt with in a timber management plan such as  
9 secondary roads, tertiary roads and that sort of thing;  
10 is that right?

11 A. Well, not -- it's -- you've captured  
12 the general, but it's not that timber management should  
13 be the assessment, but I guess a good example would be  
14 to do an assessment of a road leading to a mine and  
15 excluding the mine as part of the assessment, because  
16 the function of this road would be basically for the  
17 mine, and so it's that kind of relationship that I'm  
18 talking about vis-a-vis the Red squirrel in that it  
19 was -- there was a purpose for that road and the  
20 purpose happened to be -- happened to have  
21 environmental implications that was -- that went far  
22 beyond the right-of-way of the road.

23 And that's the point I'm getting at, it's  
24 just a little broader than what you're saying.

25 Q. I think I understand. Thank you.

1 Now, on page 10 of your witness statement, if you could  
2 just turn to that for a minute.

3 A. Yes.

4 Q. You indicate in the second last  
5 paragraph that:

6 "Finally, when one examines the proposed  
7 Class EA Document and also assumes that  
8 it includes many of the terms and  
9 conditions proposed by the intervenors  
10 this Class Environmental Assessment,  
11 except for the mandatory submission  
12 and review by MOE required in an  
13 individual EA process is very similar to  
14 an individual EA."

15 Now, when you make reference to the  
16 mandatory submission and review by MOE, are you  
17 referring to the submission to MOE which results in a  
18 government review?

19 A. I'm referring to the approval of the  
20 document by the Minister of Environment.

21 Q. Oh, all right. All right. So...

22 A. Because -- okay.

23 Q. And could you explain to me why you  
24 say this Class EA is very similar to an individual EA?  
25 Could you expand on that for me as to why you think



1       that's the position?

2                   A. Yeah. The point I was making is that  
3 with all the terms and conditions added to the Class  
4 EA, the process, the intent, the level of detail  
5 approaches that of a full fledged individual EA.

6                   Q. And this --

7                   A. If I might just complete.

8                   Q. Go ahead.

9                   A. And my point is that we're  
10 approaching an individual EA and have that -- and we  
11 have that procedure in place, but we're still trying to  
12 get a Class EA in place.

13                   Q. Okay. So when you say that you think  
14 we're approaching an individual EA, I understand you to  
15 be saying that the produce which will be prepared when  
16 one prepares a timber management plan and follows all  
17 the terms and conditions that are being recommended,  
18 that that would result in something similar to an  
19 individual EA every time you had prepared a timber  
20 management plan in accordance with all those terms and  
21 conditions. Is that what you're saying?

22                   A. I'm referring -- am I saying that.

23                   A. What I'm saying is that -- if one  
24 assumes the inclusion of the terms and conditions, then  
25 the Class EA, the Timber Management Class EA approaches

1 the level of detail and the kind of individual specific  
2 methodology approach that one normally undertakes when  
3 you conduct an individual environmental assessment or  
4 EA.

5 Q. All right. Then --

6 MR. MARTEL: Is that good or bad then?  
7 If this is so close to an individual -- in your  
8 opinion, it's gone much further than a Class EA might  
9 normally go?

10 THE WITNESS: Yes, it does, but by --  
11 okay. It harks back to my statement of how it in fact  
12 is done in practice, how a Class EA is executed in  
13 practice.

14 A Class EA once this -- what's sometimes  
15 referred to as the parent class EA or these guidelines,  
16 once they are approved, they are subject to a full set  
17 of consultations and examinations, et cetera.

18 Once they're approved, the individual  
19 undertakings within or the individual projects within a  
20 class they move forward in a more rapid and streamlined  
21 manner - that's the whole purpose really of the Class  
22 EA process - and so even though in this case the Class  
23 EA is given strengths by these terms and conditions,  
24 there is still the possibility, because it is a Class  
25 EA, that will not serve the same level of scrutiny as a

1 full individual EA because it is -- because it is in  
2 the class by definition.

3 MR. MARTEL: But was it designed to do  
4 that? I mean, it's almost a contradiction. I mean,  
5 what you're saying to me on one hand -- or saying to us  
6 one hand is this is a Class EA but goes beyond a Class  
7 EA due to the amount of detail and the terms and  
8 conditions.

9 THE WITNESS: Right.

10 MR. MARTEL: And everything that  
11 involves. Then it takes it well beyond the design of a  
12 Class EA and brings it almost to a full EA.

13 THE WITNESS: Right. On paper, yes. The  
14 basis of my point is that timber management from the  
15 process and from an ecological point of view is complex  
16 enough that it should be subject to an individual EA  
17 rather than a class, because in practice --

18 MR. MARTEL: Well, can we stop there.

19 THE WITNESS: Yeah.

20 MR. MARTEL: I don't want to interfere,  
21 but I just want to get the gist of what you're saying.

22 THE WITNESS: Understood.

23 MR. MARTEL: You're saying rather than  
24 have done this Class EA, I think you're saying we  
25 should have looked at every agreement, whether it be an

1 FMA or a Crown management unit as an individual EA?

2 Now, maybe I'm not understanding.

3 THE WITNESS: Yeah, that certainly is one  
4 way to go, yeah, and if I had -- if you ask me my  
5 opinion on that particular issue I say, yes, I think  
6 that's probably a more -- a sounder way to deal with  
7 these -- to deal with timber management issues.

8 MR. MARTEL: But would you ever get done?  
9 I mean, the difficulty is if you moved into an  
10 individual EA on every forest management agreement, on  
11 every Crown management unit and every company unit and  
12 you had EAs going, I mean, we would be in a tizzy  
13 constantly, wouldn't we?

14 THE WITNESS: Agreed. If you use the  
15 model of -- as you've stated it, if you're going to --

16 MR. MARTEL: Do an individual.

17 THE WITNESS: Do it in these kind of  
18 discrete chunks that you talk about.

19 MR. MARTEL: But if we're going to do it  
20 this way and it's as detailed as you say, is that a  
21 safeguard in your opinion against becoming, let's say,  
22 a little cavalier with the whole process?

23 THE WITNESS: A safeguard. I think it's  
24 a safeguard. I think potentially it's a safeguard, but  
25 as a secondary approach, as I mentioned in the



1 conclusion of my statement, a secondary approach would  
2 be to make certain that the characteristics of a Class  
3 EA as it is practised now; namely, that the projects  
4 have been predefined, that that is broadened, that the  
5 time frame is broadened to allow appropriate levels of  
6 consultation.

7 If those elements are taken care of, then  
8 potentially, possibly the Class EA process, the Class  
9 EA process can serve its purpose.

10 MR. MARTEL: Well, if you start two years  
11 in advance for each plan, as is roughly the agenda now.

12 THE WITNESS: Mm-hmm.

13 MR. MARTEL: To involve the public from  
14 square one over a two-year period before you even get  
15 to the plan, or by the time you have the plan in place  
16 it's two years--

17 THE WITNESS: Yes.

18 MR. MARTEL: --from start to finish.

19 THE WITNESS: Yes.

20 MR. MARTEL: In your opinion, based on  
21 your experience, would that be enough time to look at  
22 all of the possibilities or the ramifications of the  
23 timber management plan?

24 THE WITNESS: Well, I'm sure it would not  
25 be adequate to look at all the possible ramifications,

1 but it -- I would hope that one would not look at all  
2 of the possible ramifications, but one would be able to  
3 look, determine through consultation specifically which  
4 components, which elements, which linkages are those  
5 that need to be examined and, thereby, you reduce the  
6 time and you begin to build from the very beginning of  
7 a process consensus on what needs to be done, what  
8 doesn't need to be done, what needs to be addressed.

9 And in the case of the Red Squirrel, it  
10 was just that issue, from the very beginning of what's  
11 in and what's out. And what was in, in my reading of  
12 it, was the right-of-way; and what was out was  
13 everything else. And there were reasons, obviously  
14 reasons given, that there were other regulations, other  
15 policies that were in place.

16 MADAM CHAIR: Mr. Teleki, are you  
17 familiar enough with some of the evidence we have  
18 received at this hearing. For example, if there were  
19 an individual EA for the Red Squirrel Road that was to  
20 take place in the future rather than six years ago,  
21 under the Class EA such as the one we're looking at  
22 right now, I would think that the narrowness of the  
23 definition of that EA would not be as problematic as it  
24 was six years ago.

25 In other words, road access is one of the

1 four essential activities that we're looking at as part  
2 of this Class EA. Six years ago you were looking at it  
3 under the MNR Roads Class EA, which is something very  
4 different, that association between timber management  
5 and road access is central to a Class EA for timber  
6 management. It's no longer a case of trying to define  
7 the linkage between road access and timber management,  
8 that's part of this undertaking.

9 My guess would be even if you had an  
10 approved Class EA for timber management you would have  
11 still had an individual -- there would have been public  
12 demand for an individual EA of the Red Squirrel Road  
13 because of the bump-up provisions, certainly that  
14 request would have been made, but had the definition or  
15 the purpose, whatever you called it, of the Red  
16 Squirrel Road EA been wider to actually look at the  
17 impacts on the timber resource, would that have --  
18 would you have been satisfied with that?

19 THE WITNESS: Yes.

20 MADAM CHAIR: Because the problem came  
21 from that inability to make that particular EA relevant  
22 or look at all the effects of timber management?

23 THE WITNESS: That's right. And as was  
24 mentioned earlier, from the individuals that we, as a  
25 firm, interacted with in the consultation process, the

1 need to address that was brought to our attention and  
2 to MNR's attention to address issues beyond the road.  
3 I mentioned the case of these tertiary roads reaching  
4 into areas previously inaccessible.

5 MADAM CHAIR: Mm-hmm.

6 MR. MARTEL: Well, the other thing, the  
7 third point you made, and I think you started out by  
8 saying don't exclude other plans and procedures.

9 And under the timber management plan, as  
10 it's presented to us at least, all the other plans for  
11 example with respect to wildlife and management and so  
12 on do work their way in.

13 THE WITNESS: Yes.

14 MR. MARTEL: And so there's -- I don't  
15 think, maybe there isn't the exclusion of some of the  
16 things you would have wanted to see in the original  
17 because this process starts with the invitation to  
18 participate long before the terms are drafted or the  
19 concerns are expressed and people have, as presented,  
20 an opportunity to make -- from a large group, with the  
21 committee that will be established--

22 THE WITNESS: Right.

23 MR. MARTEL: --an opportunity to indicate  
24 what the concerns are early.

25 THE WITNESS: Yes. You know, I'm sure



1 that that is the intention and that's how it's  
2 proceeding. I'm simply -- the reason for bringing  
3 forward this business of not excluding or is in  
4 practice - and I say again, I've been involved in,  
5 what, over 20 Class EAs now in the last number of  
6 years. In practice, sometimes the interpretation of a  
7 Class EA is cut down to the bare bones so to speak and  
8 my opinion would be that in the case of timber  
9 management, where it's a complex thing, that the Class  
10 EA procedure has to be really strengthened to deal with  
11 the problem.

12 MR. MARTEL: Make sure everything is  
13 given a look?

14 THE WITNESS: Not everything, not  
15 everything.

16 MR. MARTEL: Well --

17 THE WITNESS: But make sure that the key  
18 elements that have been agreed to by the various  
19 stakeholders are dealt with. That's my opinion.

20 MADAM CHAIR: Mr. -Freidin, do you have  
21 any more questions?

22 MR. FREIDIN: Yes, yes.

23 Q. Would you agree, Mr. Teleki, that the  
24 level of detail that one would include in a class  
25 environmental assessment, and I include in that

1 evidence at a hearing, would be based or affected by  
2 the complexity of the undertaking itself?

3 A. Yes.

4 Q. Would you agree that the more complex  
5 the undertaking, the more detail and the lengthier the  
6 examination would be?

7 A. Yes.

8 Q. Would you agree that the evidence, or  
9 the class environmental assessment, the written  
10 document, and the evidence at a hearing is required to  
11 be sufficiently detailed enough to allow the decision  
12 maker to tailor the terms and conditions such that they  
13 are appropriate to the specific undertaking which is  
14 before them.

15 A. Yes.

16 Q. Can I ask your opinion, Mr. Teleki --

17 MR. FREIDIN: Can I just have a moment.

18 I think that --

19 THE WITNESS: Sure.

20 MR. FREIDIN: Q. I understand that the  
21 Red Squirrel road decision, the decision made by the  
22 Minister of Environment as a result of the individual  
23 environmental assessment was the subject matter of a  
24 court challenge?

25 A. I believe it was. I don't know --

1 I'm not -- as I say, I haven't been involved in this  
2 particular project since 1988.

3 Q. So you aren't aware then whether or  
4 not the court basically found no problems with the  
5 approach which was taken or did, you don't know either  
6 way?

7 A. I don't recall that, no.

8 Q. Okay. If I might just go back to  
9 page 10 of the witness statement.

10 A. Sure.

11 Q. Where in the last paragraph,  
12 following along from our earlier conversation, you  
13 indicated that the conclusion you've reached in the  
14 above paragraph calls into question the years of  
15 effort, et cetera, that have spent on this process.

16 Do you believe that -- well, I understand  
17 that it is common in approvals of classes of  
18 undertakings that planning processes are imposed as a  
19 condition of approval, that you must follow a certain  
20 planning process whenever you are planning--

21 A. Yes.

22 Q. --the undertaking; is that correct?

23 A. They're not conditions of approval,  
24 this is my understanding, they are, as I understand,  
25 conditions to mean that that they are imposed once a

1 document is in place. There are additional things that  
2 are seen to be absent and conditions are imposed. Is  
3 that...

4 Q. Well, let me start off by saying  
5 you've never been involved in a hearing in relation to  
6 a class of undertakings before this?

7 A. Hearing in relation to a class of  
8 undertakings? No, no.

9 Q. All right.

10 A. Not the class of undertakings.

11 Q. But normally what happens is that in  
12 these class environmental assessments which are  
13 submitted to the Ministry of the Environment they ask  
14 for approval to carry out certain works?

15 A. Yes.

16 Q. And in the document itself they also  
17 describe a planning process--

18 A. Yes.

19 Q. --that they will use--

20 A. That's what I said.

21 Q. --whenever they're planning; is that  
22 right?

23 A. Yes, yes. But those are not terms  
24 and conditions; are they? Excuse me for asking the  
25 question, but terms and conditions I thought were



1 additional.

2 Q. Well, let me put it to you this way:  
3 I will suggest to you that the issue as to whether  
4 there should be a distinction between the undertaking  
5 described in those class environmental assessments and  
6 the planning process described in those class  
7 environmental assessments has never had to be addressed  
8 or debated before because there had never been a  
9 hearing in relation to class environmental assessments.

10 A. Oh, I see. Well, that's true, yes.

11 Q. Okay. Now, in terms of this  
12 individual environmental assessment verus class  
13 environmental assessment, Mr. Martel was asking you  
14 about what would the ramifications be if you had to  
15 have an individual environmental assessment every time  
16 you prepared a timber management plan.

17 A. Right.

18 Q. And just going to your comment here  
19 about questioning perhaps the necessity of having to go  
20 through the process which we have been going through  
21 for some time now--

22 A. Yes.

23 Q. --if there was no class environmental  
24 assessment in relation to timber management, would you  
25 agree that there would be no common planning process

1 imposed upon the proponent?

2 A. No, I don't agree.

3 Q. How -- all right.

4 A. I don't agree because -- I don't  
5 agree because my statement speaks to the fact that for  
6 each timber management planning area, if you will --

7 Q. Well, let's call it a forest  
8 management unit.

9 A. The forest management unit. Forest  
10 management unit, the conditions, the situations, the  
11 factors are different, are -- I wouldn't say unique,  
12 but they certainly are, they're different  
13 relationships. So, therefore, a single planning  
14 approach which is what occurs in a Class EA, a series  
15 of basically cookbook series of steps one proceeds  
16 through, in my view, are not appropriate.

17 Q. What's cookbook about the process  
18 that you see? What's cookbook about the process that  
19 you see being proposed?

20 A. Well, it is a series of predefined  
21 steps that speak to a certain scope, that speak to a  
22 certain level of detail, that imply a consultation --  
23 well, that don't specify consultation in any great  
24 detail, and there are a number of other elements  
25 that -- maybe cookbook is not the right word - I

1 just -- it's just something that came to mind.

2 But it is -- but I guess what I'm trying  
3 to say is that it is the uniqueness of each timber  
4 management area that needs to be addressed, and I worry  
5 about a standard across the province methodology being  
6 put in place for that, you see.

7 Q. Now, are you familiar with the  
8 planning process which has been put forward by the  
9 Ministry of Natural Resources, and I'm thinking now  
10 specifically in relation to the public consultation  
11 provisions of it?

12 A. No, I'm not familiar with that, no.  
13 This is recent, is it?

14 Q. Yes. They came out on January the  
15 6th, 1992. Have you not read those?

16 A. Public consultation, MNR. No, I  
17 haven't read that.

18 Q. Have you read MNR's terms and  
19 conditions?

20 A. Terms and conditions of what?

21 Q. All right. Are you aware that the  
22 parties to this environmental assessment, all of the  
23 major parties have submitted draft terms and conditions  
24 that they think it would be reasonable for this Board  
25 to impose on the proponent?

1 A. Yes, I've read some of these, yes.

2 Q. You are aware of them, you have read  
3 some of them?

4 A. Yeah.

5 Q. But you haven't read the one  
6 submitted by the Ministry of Natural Resources?

7 A. I have not, no.

8 Q. And do you believe that if there is  
9 no common - let's not say common planning process - if  
10 there's no minimum standard in terms of public  
11 consultation which must take place as a minimum, that  
12 every time you prepare a timber management plan, would  
13 you agree that a debate could arise every time you did  
14 timber management planning as to what was the minimum  
15 required and what wasn't?

16 A. Well, I hear what you're saying and I  
17 appreciate the problems of establishing and not  
18 establishing minima, but certainly you have to have a  
19 base of consultation.

20 But I believe that that can be  
21 established - to get at your question to me - that can  
22 be established through a scoping activity, if you will,  
23 that defines what that level should be.

24 So in the situation where -- I don't have  
25 a specific example in mind, but there may not be an



1 objection, there may not be concerns, there may be very  
2 minimal kinds of concerns, in which case why impose a  
3 procedure that has given the environmental assessment  
4 process the reputation it has, which is a long and  
5 complicated and expensive process.

6 Q. I suggest to you that having a common  
7 planning process, at least minimum standards in  
8 relation to what imposed by this Board would in fact  
9 make things run more efficiently than less efficiently  
10 at the local level.

11 A. I'm not suggesting this shouldn't be  
12 a minimum process, I'm suggesting it should be looked  
13 at in the context of what the particular problem is.

14 Q. Right. But if there is no class  
15 environmental assessment, then there is no mechanism to  
16 have a base.

17 And what I'm suggesting to you is, I'm  
18 saying, we haven't been wasting our time here because  
19 one of the things which this Board is going to decide  
20 is going to be the base, using your language.

21 A. I don't think you've been wasting  
22 your time. I'm just saying that there is -- if you're  
23 referring back to my page 10 comment, I'm simply saying  
24 that it's almost the same as an individual EA that  
25 you're dealing with here and that why -- I would

1 question why this approach now instead of the  
2 individual EA when you're dealing with the same level  
3 of detail. There are some differences, as we know,  
4 between the Class EA and the individual EA.

5 Q. Are you familiar with timber  
6 management plans?

7 A. Very minimally, as I stated.

8 Q. Therefore, you don't have any real  
9 appreciation of the specific subject matters or the  
10 level of detail of planning which occurs during timber  
11 management planning?

12 A. I'm aware that timber management  
13 planning includes these elements that were excluded  
14 from this -- from the Red Squirrel EA; namely, it  
15 includes the planning of the secondary and tertiary  
16 roads and it includes the dealing with fish and  
17 wildlife to a certain extent. So it does -- yes.

18 Q. And if you're not aware of the level  
19 of detail to which timber management planning occurs at  
20 the forest management unit level, I would suggest to  
21 you that it is very difficult for you indeed to really  
22 have an informed decision as to whether this Board can,  
23 based on the evidence, provide meaningful guidance for  
24 timber management planning at the forest management  
25 unit level.

1                   A. I didn't understand your question.  
2       Is it a statement?

3                   Q. Well, it was a question. I'll put it  
4       to you again.

5                   A. Please.

6                   Q. You don't have a lot of familiarity  
7       with timber management planning, per se?

8                   A. That's right.

9                   Q. You've indicated that the terms and  
10       conditions that get attached to any approval of a class  
11       of undertakings is affected to a great extent by the  
12       undertaking itself.

13                   And if you put those two things together  
14       I'm suggesting that you don't have -- I'm not  
15       dismissing your evidence as a whole, I'm just saying,  
16       you don't have a sufficient understanding of the  
17       undertaking itself and all of the evidence which has  
18       been lead?

19                   A. Which undertaking are you speaking  
20       of?

21                   Q. Timber management.

22                   A. Yes.

23                   MS. LLOYD: Excuse me --

24                   MR. FREIDIN: Q. You don't have a  
25       sufficient understanding of timber management or the

1       undertaking itself to be able to comment really -- your  
2       comment shouldn't be given any weight as to whether in  
3       fact this class environmental assessment is one which  
4       is useful or not?

5                   MS. LLOYD:  Madam Chair, it's my  
6       recollection that the witness did state quite clearly  
7       at the beginning, or earlier in his evidence that he  
8       was not overly familiar or was not familiar with the  
9       timber management planning process.

10                   It's my understanding that  
11       cross-examination is an opportunity for legal counsel  
12       to ask questions.  It's my assessment that at this  
13       point we're hearing a series of statements, and if you  
14       could give some direction on that.

15                   I know I'm not legal counsel, so I'm  
16       perhaps missing a procedural nuance.

17                   MADAM CHAIR:  No, thank you, Ms. Lloyd.  
18       I don't think we're going to get very far with this  
19       line of questioning, Mr. Freidin.

20                   Are you almost finished?

21                   MR. FREIDIN:  Oh, yes, yes.

22                   Those are my questions.

23                   MADAM CHAIR:  Thank you.

24                   Thank you very much, Mr. Teleki.

25                   And your last two witnesses, Ms. Lloyd?



1 MS. LLOYD: Thank you. Our next two  
2 witnesses are Mark Dockstater and Peter Homenuck whom  
3 we will call as a panel together.

4 MADAM CHAIR: All right. And Could  
5 please spell Dr. Homenuck's last name. I notice it's  
6 spelled a couple of different ways. I assume it's  
7 H-o-m--

8 MS. LLOYD: H-o-m-e-n-u-c-k.

9 MADAM CHAIR: U-c-k. All right, thank  
10 you.

11 MS. LLOYD: We will be calling these two  
12 witnesses as a panel. Would you prefer to be sworn or  
13 to affirm.

14 DR. HOMENUCK: Affirm.

15 DR. PETER HOMENUCK,  
16 MARK DOCKSTATER, Affirmed

17 DIRECT EXAMINATION BY MS. LLOYD:

18 Q. If I could begin by asking each of  
19 you to introduce yourself, describe your area of  
20 expertise, your current place of work and your  
21 expertise particularly relevant to the witness  
22 statement which we have filed.

23 Mark, if you could begin.

24 MR. DOCKSTATER: A. Okay, I'll begin.  
25 My name is Mark Dockstater, I'm currently with the

1 Indian Claims Commission which is a Royal Commission  
2 dealing with specific land claims in Canada and was  
3 recently, I think of last year, commissioned.

4 I have spent the last 10 years  
5 specializing in aboriginal rights and issues dealing  
6 with aboriginal rights, specifically that of aboriginal  
7 self-government.

8 I have an undergraduate degree in  
9 chemistry and an undergraduate degree in law, a Masters  
10 degree in law which I transferred into my doctoral  
11 degree in law which I'm now completing at Osgoode Hall  
12 Law School.

13 Should we so desire to get into the issue  
14 of aboriginal rights in the context of the timber class  
15 hearing, then I'll be here to elaborate on those  
16 issues.

17 DR. HOMENUCK: A. Yes. I'm a professor  
18 in Faculty of Environmental Studies at York University,  
19 have been since 1970. I teach courses in public  
20 consultation and impact assessment. In addition to  
21 that, I'm founding one of the founding partners and now  
22 the senior partner in the Institute of Environmental  
23 Research which is a public consultation social impact  
24 consulting firm which has been in business now for 20  
25 years and does work on projects across Canada as well

1 as in the United States.

2 Q. Thank you. Peter, if we could begin  
3 by asking you to elaborate on the public consultation  
4 process as you described it in your witness statement  
5 with respect to timber management planning and giving  
6 some particular note to the establishment of goals and  
7 objectives, aboriginal rights and the dispute  
8 mechanism.

9 A. I will be using an overhead in a  
10 moment, so I have copies that need to be circulated.

11 MS. LLOYD: If we could get these filed  
12 as an exhibit, please. (handed)

13 MADAM CHAIR: Thank you.

14 DR. HOMENUCK: Let me begin by pointing  
15 out that --

16 MS. LLOYD: Wait for the panel.

17 DR. HOMENUCK: Oh, sorry.

18 MADAM CHAIR: We will make this Exhibit  
19 2198 and it is a one-page outline of one of your  
20 overheads, Dr. Homenuck.

21 DR. HOMENUCK: The only overhead.

22 MADAM CHAIR: The only overhead. Thank  
23 you.

24 ---EXHIBIT NO. 2198: One-page outline of overhead to  
25 be used during evidence of Dr.  
Peter Homenuck.

1 DR. HOMENUCK: I would like to start by  
2 pointing out that we were retained to examine the  
3 approach to public consultation that the Ministry of  
4 Natural Resources had put forward for the purpose of  
5 the Timber Management Class Environmental Assessment  
6 process and, as I think everyone's aware, that there  
7 have been terms and conditions evolving through  
8 discussions over the last two or three years and  
9 relating to a whole range of factors including public  
10 consultation.

11 I think that the Ministry of Natural  
12 Resources' model as presented with the terms and  
13 conditions that are documented as of January, 1992,  
14 have a number of positive features.

15 The model has a number of well-defined  
16 opportunities for public to access the internal  
17 mechanisms of information gathering and development and  
18 there is now a certain level of flexibility to address  
19 certain requirements of the aboriginal communities.

20 Having said that, with all of these  
21 positive features, I would note that they're within the  
22 context of assisting in the development of meeting the  
23 timber harvest objective and we think that even with  
24 the improvements and modifications that have been made  
25 there still remains some substantial, we feel, are



1 designed deficiencies and there are three that we want  
2 to talk about briefly.

3           These are in the context of the overall  
4 effectiveness in relating to a much larger perspective,  
5 larger perspective beyond timber harvest objectives and  
6 what we see as lacking, or lacking in part in the  
7 current proposal, the current model is the public  
8 participation at the front end; that is, the  
9 involvement of stakeholders in the identification of  
10 broad goals and objectives for all resources in the  
11 timber management area.

12           Secondly, what we have referred to as the  
13 sort of insider/outsider context, where the public has  
14 little to no capacity to bind or enforce changes in the  
15 MNR process, it's primarily in assisting in some minor  
16 ways in the development of the plan.

17           And, thirdly, we had some concerns about  
18 what we refer to here as the back end; that is, the  
19 monitoring and evaluation part of the proposal.

20           I want to talk just briefly about all  
21 three of those areas and just touch on them before I go  
22 to the overhead in a little more detail.

23           As I mentioned, the proposed process  
24 provides the opportunities for people to take part in  
25 the development of the timber management plan in a

1 limited way and doesn't provide the opportunity to  
2 participate in setting broad goals and objectives; in  
3 other words, timber production is a given.

4 Secondly, as far as the dispute  
5 resolution mechanism is concerned, it's clear from the  
6 terms and conditions and I believe it's the direct --  
7 reply statement of evidence of Ministry of Natural  
8 Resources, that MNR really has absolute power and  
9 unilateral authority to determine the manner, extent  
10 and degree to which the public's input will be managed.

11 And the reason we say that is that the  
12 extent that there are potentially disputes, points of  
13 disagreement, the adjudication actually rests with the  
14 Ministry of Natural Resources and the district director  
15 and, in my mind, that really means the adjudication  
16 disputes also rest with the proponent.

17 And, thirdly, the implementation. As  
18 happens in many projects, there are often changes that  
19 occur during implementation or, alternatively, between  
20 the final plan and the actual implementation and it's  
21 necessary to ensure that there be effective monitoring  
22 on a regular basis in order to demonstrate that the  
23 plan is being implemented as projected and the impacts  
24 that were projected are being, in fact, experienced,  
25 that there aren't other impacts that have to be dealt

1 with.

2 And I would say that the Ministry of  
3 Natural Resources has actually dealt to a considerable  
4 extent to what we're referring to here as the back end  
5 in terms of the part through the terms and conditions  
6 which No. 56 and 57 on page 19, as well as appendices  
7 opinion disease 12 and 13.

8 So a number of the points that we've  
9 identified and want to discuss, the Ministry has gone a  
10 certain way to addressing and we think that the  
11 modifications that we want to talk about will be  
12 helpful to facilitate an improved relationship between  
13 public, public interests and the Ministry of Natural  
14 Resources and the Ministry's responsibilities.

15 I would like to return to using the  
16 overhead at this point and --

17 Now, that is the top half of the page.  
18 What was handed out is the proposed model that the  
19 Ministry has in the Class Timber Management EA, and  
20 this model draws upon really three different principles  
21 of public consultation: Providing education, sharing  
22 of information, and consultation in a limited fashion.  
23 And by that I mean that this model allows for  
24 consultation of stakeholders in the context of the  
25 development of a timber management plan that's really

1 based on constraint analysis and mitigation.

2 What I mean by that is the plan, as I  
3 understand it, is that the objective is the timber  
4 management. There's recognition that there are other  
5 factors and influences that come into play, but the  
6 emphasis here is: How do we maintain the timber  
7 production component and how do we work around or  
8 mitigate the other things that we have to pay some  
9 attention to.

10 The second part of this overhead which we  
11 refer to here is, as it says, alternative model, but in  
12 fact I have to get it up here -- here we go -- I think  
13 that prefer to look at it now with some of the changes  
14 the Ministry has made as a modification and it builds  
15 in -- it still accepts stages 1 through 4 as identified  
16 by the Ministry, but it builds in, particularly most  
17 importantly at the front end and this builds in the  
18 principle of some involvement in terms of joint or  
19 shared decision-making.

20 Now, what we mean by the front end is  
21 that, that's a strategic planning kind of component and  
22 it means -- or what we mean by it, is that the  
23 stakeholders that are identified, people that have an  
24 interest in a particular timber management plan, are  
25 involved right at the beginning and looking at very



1 broad goals and objectives for a forest management area  
2 and, in doing so, they look at the role of timber  
3 harvesting within those broad objectives.

4 So what are all the objectives that  
5 people have or feel are important for a particular  
6 forest management area and how does the timber  
7 management objective fit into that.

8 There's a second -- and I would suggest  
9 that the Ministry has actually gone some way towards  
10 acknowledging being the need for some up front kind of  
11 discussion, because in their reply statement on page 8  
12 there's reference to convening the local committee well  
13 before the stage 1 information gathering, and that  
14 provides an opportunity for that kind of discussion and  
15 setting of broader goals and objectives.

16 The second issue that's important to  
17 address at the front end is the role of the aboriginal  
18 people. And since the hearing started some four years  
19 ago, there have been a number of very significant  
20 changes and modifications, political and legal. The  
21 recognition -- provincial and federal levels, political  
22 recognition of aboriginal peoples and constitutional  
23 aboriginal rights; and, secondly, a number of Supreme  
24 Court decisions that have affirmed priority use rights  
25 for aboriginal people. This would imply that in areas

1 where aboriginal people have an interest that they are  
2 a stakeholder that has a level of right different from  
3 other stakeholders.

4 What we think is important at this up  
5 front end is to have a mechanism which brings together  
6 the aboriginal interests in the particular area along  
7 with the Ministry of Natural Resources who obviously  
8 has the authority and responsibility for all the  
9 natural resource plans of relevance and would be the  
10 representative of the other stakeholders to examine  
11 what are the broad goals and objectives for this  
12 particular forest management area, what goals and  
13 objectives are there beyond the harvesting of timber,  
14 and how can all of those fit together.

15 Once that kind of discussion takes place,  
16 some of those goals and objectives are set, then the  
17 timber management plan occurs in the context of the  
18 broader resource use goals and objectives, and it would  
19 follow stages 1 through 4 as described.

20 The second point that we've identified  
21 there we call the dispute resolution mechanism. We're  
22 suggesting that, as will happen often in these kinds of  
23 planning processes, there will be different points of  
24 views and different value systems that come to the fore  
25 and have to be addressed and that when those reach a

1 stumbling block that some form of environmental  
2 mediation in a very limited time frame occur to help  
3 resolve the issue so that the planning can proceed.

4 And we state in our witness statement, we  
5 think that that kind of dispute resolution mechanism  
6 really means the involvement of a neutral third party,  
7 we don't feel that it's appropriate for dispute  
8 resolution to rest in the hands of the proponent,  
9 particularly since the disputes may often include the  
10 proponent and some other -- and one of the  
11 stakeholders.

12 And, finally, what we refer to there as  
13 the back end of the review, and MNR has proposed an  
14 annual review of the plan, and we agree with that. We  
15 would like to see it broadened so it not only reviews  
16 the quantity of timber cut and so on, but that there be  
17 information that allows the plan to be evaluated  
18 against both the timber harvesting objectives and also  
19 any other broad goals and objectives that have been  
20 identified.

21 So I just in summary say that we think  
22 that our proposed model, and we think we no longer  
23 refer to it as an alternative but something that  
24 enhances and bolsters the emerging Ministry of Natural  
25 Resources position, and we think that it builds upon

1 and reinforces the Ministry's position, it makes it  
2 much more flexible in the up front of education of  
3 goals and objectives.

4 I would like to just conclude by making  
5 reference to the Ministry's documents themselves and,  
6 in particular, the reply statement of evidence.

7 MADAM CHAIR: Excuse me, Dr. Homenuck.  
8 Is that the first statement of evidence? On the title  
9 page...

10 DR. HOMENUCK: No, it says reply  
11 statement of evidence No. 1.

12 MADAM CHAIR: Yes, and the title is  
13 public participation

14 DR. HOMENUCK: No. It just says timber  
15 management planning process and related matters.

16 MADAM CHAIR: No. 1. Okay, thank you.

17 DR. HOMENUCK: There isn't a date on it.  
18 I looked, I couldn't find one.

19 Just in closing, I think there's  
20 something that's I think important here, and that the  
21 Ministry has said that the guiding premise is to  
22 ensure, or was to ensure that the terms and conditions  
23 reflect the basic minimum requirements for every timber  
24 management plan on Crown land in Ontario. It then  
25 quotes from the Illing Report which says:



1 "It's understood that timber management  
2 activities and planning in any particular  
3 forest management unit must comply with  
4 minimum requirements imposed by the terms  
5 and conditions, but that innovation and  
6 improvements which are not inconsistent  
7 with the minimum requirements should be  
8 allowed and encouraged."

9 And we would submit that the kind of  
10 changes that we think would modify the plan and make it  
11 even much more effective as a public consultation  
12 document or public consultation approach is, in fact,  
13 an innovation and improvement which isn't inconsistent  
14 with what the Ministry has outlined but rather enhances  
15 that approach.

16 MS. LLOYD: Q. I wonder if you could  
17 comment for us on selection mechanisms for stakeholders  
18 committee which the Ministry has indicated a  
19 willingness to go with or an intent to go with.

20 Could you describe selection mechanisms  
21 or models for soliciting participation for those?

22 DR. HOMENUCK: A. Well, I understand  
23 that in the past sometimes the people are selected by  
24 the Ministry or someone in management in the Ministry,  
25 sometimes by the minister himself or herself.

1 I think that if you're going to address  
2 the broad range of public views and interests that  
3 stakeholders need to be identified, they clearly can be  
4 identified and should be identified by the proponent in  
5 the first instance, that is who is the list of  
6 stakeholders. Other people need an opportunity to self  
7 identify, and then whoever would serve on such a  
8 committee should really be selected from any  
9 constituency that they're likely to be representing.

10 MR. MARTEL: By whom?

11 DR. HOMENUCK: By that constituency.

12 MR. MARTEL: By the constituency itself.

13 DR. HOMENUCK: Yes.

14 MS. LLOYD: Q. I wonder if you can also  
15 comment on what resources might be required by  
16 participants for that kind of a stakeholder's process  
17 and what the responsibilities might be of the proponent  
18 in providing those resources?

19 DR. HOMENUCK: A. Well, I don't -- I  
20 guess it's going to be a little difficult to generalize  
21 because so much, when you're identifying broad goals  
22 and objectives, depends on part on the circumstances in  
23 an area, depends on part of the chemistry of the  
24 committee

25 But I have seen situations that I would -

1 I just put it in quotes - sort of a strategic planning  
2 kind of setting in which broad goals and objectives are  
3 identified and people work toward them in some  
4 consensus fashion that can occur in a period of a few  
5 months.

6 What people need is to be able to be  
7 clear about what their interests are. There also has  
8 to be an understanding that there are other reasonable  
9 people with reasonable interests and expectations and  
10 that those, you know, people have a right to lay those  
11 out and to discuss them and to try and find some way of  
12 accommodating all those interests.

13 I wouldn't want to leave you with the  
14 impression that that will always work because sometimes  
15 it won't and, therefore, the real accommodation of  
16 deciding which interests are going to win out incur in  
17 a forum like an environmental assessment hearing, but  
18 there are and have been situations where they can be  
19 worked out with people understanding what all of the  
20 implications are.

21 It would mean that the proponent would  
22 have to generate a certain amount of that information  
23 on behalf of the stakeholders, they would have the  
24 resources primarily to be able to generate that kind of  
25 information, and that the proponent may - when I say

1       proponents I'm meaning Ministry of Natural Resources -  
2       that the Ministry would probably have to generate some  
3       information that they might not otherwise although I  
4       note that there is an increasing amount of information  
5       that the Ministry is either generating or is proposing  
6       to generate in the two to five years subsequent to the  
7       approval of the Class EA.

8                       I would think that some of that  
9       information -- that's the kind of information people  
10      are going to want to have; the sooner they have it the  
11      better. They will need it to really take an effective  
12      part in helping set some of those goals and objectives.

13                    MADAM CHAIR: Excuse me, a question, Dr.  
14      home. An issue that is before the Board is whether  
15      timber management is everything; in other words, when  
16      you talk about broad goals and objectives, some people  
17      would say, particularly in northern Ontario, that  
18      timber management is everything, that it encompasses  
19      every aspect of land use planning, that it is the  
20      activity that defines how the land base of northern  
21      Ontario is used.

22                    And other groups, including the proponent  
23      I guess would say: Well, that's not true, it's not a  
24      total land planning exercise, in fact it's very much  
25      the four activities we're asking approval for.



1                   So when you talk about a timber  
2 management stakeholders group sitting down and looking  
3 at broad objectives, we don't know what that means,  
4 because we've had evidence that that could mean every  
5 aspect of land use planning.

6                   DR. HOMENUCK: Yeah. I guess I would  
7 lean to a model that would involve stakeholders in  
8 deciding broad goals and objectives for forest  
9 management. The timber component is part of it. I  
10 would see that as being a subset of overall forest  
11 management.

12                   I think that there are broad kinds of  
13 issues that -- I will just give you one example. For  
14 example, Native medicinal plants, which I believe  
15 you've had some evidence on, the value of preserving or  
16 protecting areas with Native medicinal plants both for  
17 Native culture, Native approach to health; and, in the  
18 broader sense, the contribution they can make  
19 potentially to the health of everybody is something of  
20 considerable significance in forest management, yet it  
21 may not get sufficient weight or consideration in  
22 timber management where I mentioned - my words at  
23 least - the objective is timber harvesting.

24                   I realize that the areas of Native values  
25 and so on will be mapped and that kind of thing, but

1 that still doesn't say anything about how much weight  
2 that's given. The way I read the document it really  
3 says let's map those other things and let's try not to  
4 destroy them or disrupt them too much, let's try to  
5 avoid them. So it may mean going around a particular  
6 site or moving a road a hundred metres one way or the  
7 other, but that doesn't address the fundamental  
8 objectives of -- fundamental goals and objectives that  
9 could be addressed -- could be identified, sorry.

10 MS. LLOYD: Q. I would like to go back  
11 to the statement you made about aboriginal people  
12 having special rights, and I believe you said that by  
13 extension then the OMNR has special responsibilities.  
14 If you could expand on that.

15 A. I didn't mean by extension. The MNR  
16 does have specific obligations and responsibilities and  
17 those obligations and responsibilities are very wide  
18 ranging but they deal with the governing of the use of  
19 our natural resources.

20 The point I was trying to make is that in  
21 the last short period of time, the last less than two  
22 years, we have some very clear cases now that  
23 recognition of a particular stakeholder group, the  
24 aboriginal peoples, having somewhat different rights to  
25 the natural resources than other groups might, like the

1 hunters and trappers, like some of the environmental  
2 groups.

3 - And that's a point that I think's got to  
4 be recognized and I believe MNR does recognize it up to  
5 the point of saying we should identify Native values  
6 and try and incorporate them in timber management, but  
7 that's not the same as saying they have a priority --  
8 that's involving them in the public consultation of  
9 doing the timber management plan as sensitively as you  
10 can; that's different than saying the aboriginal people  
11 now have a priority right to suggest or to say  
12 something about how forest and other natural resources  
13 are going to be used.

14 And that's really what we see as the  
15 fundamental differences here and we think that the  
16 front end that we talked about, getting at some of that  
17 strategic planning, some of the strategic goals and  
18 objectives setting with MNR sitting down with the  
19 aboriginal people and if between them they agree to  
20 bring in all the other groups at that stage, fine, but  
21 there need to be those kinds of discussions, we think -  
22 and Mark can elaborate on this - but we believe there's  
23 a legal requirement there to consider that.

24 MR. MARTEL: Will that legal requirement  
25 be met by this panel or will it be met by government

1 per se?

2 DR. HOMENUCK: Well, that's a good  
3 question. That's a good question. As you know, it's  
4 an evolving area that's changing daily, weekly,  
5 whatever and the point we're trying to make - and we  
6 hope that MNR will take into consideration - is that  
7 they can take the step now to begin having those kinds  
8 of discussions, and the way the terms and conditions,  
9 or at least for the public consultation activity for  
10 the Class EA, that can be acknowledged up front and,  
11 potentially, avoid some problems down the road.

12 MS. LLOYD: Q. And then, given that  
13 there is a special relationship at the front end, if  
14 that's a given, then what is the ongoing role of  
15 aboriginal people throughout? After the goals and  
16 objectives have been set, if that's accomplished in a  
17 joint fashion, what's then the ongoing role?

18 A. Well, what we've suggested in the  
19 witness statement - which I didn't talk about yet - is  
20 some form of co-management of the process, which  
21 includes co-management of the dispute resolution  
22 mechanism, and that might include agreement right at  
23 the beginning that if we get into a point of dispute  
24 over some substantive issue we will mediate it and  
25 within a time frame, and that can be done.



1                   There are a number of examples now where  
2                   the interpretation and enforcement of agreements right  
3                   at the beginning identify a pool of mediators that will  
4                   be called upon if needed to resolve issues through an  
5                   interpretation or implementation of a process, but we  
6                   think that there's a scope now for a co-management of  
7                   the process.

8                   Q.   So going on to the dispute resolution  
9                   mechanism, what would be the decision-making mechanism  
10                  for having that kick in; would that be co-managers,  
11                  aboriginal people and OMNR, or the stakeholders  
12                  committee or would that be...

13                  A.   Well, I think it could be both. I  
14                  think that anyone on the stakeholders committee could  
15                  say: Look, I don't agree with the particular -- you  
16                  know, with this particular position and we would like  
17                  to have it explored more fully and, you know, some  
18                  ground rules would have to be put in place for what  
19                  would actually kick that dispute resolution mechanism  
20                  into play, but it could come from the local committee  
21                  and it could come from the interaction between the  
22                  aboriginal people and the Ministry.

23                  As it is now it's identified that the  
24                  local citizens committee in a sense has that as a bit  
25                  of a responsibility to try and resolve disputes and I'm

1 not sure that that is an appropriate venue for the  
2 resolution of those disputes.

3 And, as it stands now, any disputes are  
4 really adjudicated by MNR in the context of the timber  
5 management plan.

6 Q. Is there anything either of you would  
7 like to add as an additional comment. I have no more  
8 questions.

9 MR. DOCKSTATER: A. No.

10 DR. HOMENUCK: A. No.

11 MADAM CHAIR: Thank you. Will there be  
12 any cross-examination. Mr. Freidin?

13 MR. FREIDIN: Just a couple of questions.

14 MADAM CHAIR: Okay.

15 CROSS-EXAMINATION BY MR. FREIDIN:

16 Q. It's Dr. Homenuck?

17 A. Yes, sir.

18 Q. You made a comment just a few minutes  
19 ago that you don't see that the local citizenship or  
20 citizens committee is an appropriate forum to resolve  
21 disputes.

22 A. Yeah.

23 Q. Are you saying that at all, or do you  
24 think it has a role at least at some stage of a dispute  
25 resolution?

1                   A. Sure, it does at the early stages  
2 when people are laying out all of their points of view  
3 and there can be some discussion and, you know --  
4 again, I stake a lot on the chemistry of the  
5 individuals involved in any of these kind of processes,  
6 but it's quite possible that with talking with others  
7 and seeing it from their viewpoint and them seeing it  
8 from yours, you can come to some accommodation.

9                   But if positions get hardened on some  
10 aspect between, say, two of the people on the citizens  
11 committee, as it stands now the resolution really rests  
12 with the Ministry of Natural Resources where it may be  
13 that, you know, it's sort of a tripartite hardening of  
14 positions and some external party might be able to  
15 mediate between the Ministry and these two stakeholders  
16 and resolve it.

17                  Q. What weight do you give to or what  
18 role do you see the concept of bump-up having in that  
19 sort of situation where you've got everybody's hardened  
20 position?

21                  A. I'm hopeful that, and I feel quite  
22 confident that the kind of approach we're suggesting,  
23 if it's done properly, at that front end will reduce  
24 the likelihood of bump-ups, it doesn't mean it will  
25 eliminate them because obviously any person can ask for

1 a bump-up, but if all of the stakeholders, legitimately  
2 identified, go through a process - and, as I say, it  
3 doesn't have to be lengthy, it could be a few months -  
4 setting out the broad goals and objectives saying  
5 here's how timber management fits in with fishing,  
6 whatever else, all the resource uses people want to  
7 deal with, that there's a bit -- there's sort of a  
8 buy-in to the broad goals and objectives and there's a  
9 recognition that timber management fits into this  
10 broader picture.

11 And with the openness of the process I  
12 think you have a reasonably good chance of either  
13 reducing the request for bump-up or limiting any  
14 dispute that has to be resolved, whether it be resolved  
15 through mediation or whether it be resolved when it  
16 gets to the board level to a very few point.

17 Q. I would like you to expand a little  
18 bit on the discussion you had with the Chair regarding  
19 the broad goals and objectives that you want to  
20 incorporate into the front end. You gave one example  
21 and the example you gave was in the context of  
22 protecting certain values.

23 Can you give me some more examples of  
24 what you see as the output of that discussion regarding  
25 broad goals and objectives. I think it's important for



1 the Board to understand what sorts of decisions you  
2 contemplate being made at that stage before -- at that  
3 stage?

4 A. Well, I think when people look at  
5 timber management they tend to think now in terms more  
6 of sustainability, and in those kinds of discussions  
7 you will have the need to obviously harvest timber,  
8 with it goes some stability of jobs, job security,  
9 meeting obviously the needs and the demands for timber,  
10 but there's also other values that relate to the  
11 ecosystem, the preservation say of old growth forests,  
12 ensuring the water quality of various lakes and rivers,  
13 the issues with respect to Native areas that Native  
14 people use for country food and/or for various cultural  
15 reasons, issues with respect to the potential for  
16 tourism, maintenance of tourism and the potential for  
17 tourism and what kind of environment has to be  
18 maintained or enhanced.

19 Those are some of the kinds of things and  
20 I think that really there's diverse and changing values  
21 that come to the fore. And I'm just looking at a list  
22 here that came out of a similar circumstance in British  
23 Columbia where they dealt with a sustainable, basically  
24 the B.C. round table had a stakeholders discussion  
25 about sustainability and sustainable development for

1 forest and water resources and those are some of the  
2 kinds of things that were identified.

3 Now, those are identified, the next  
4 question you have to ask is: Okay, how do we  
5 accommodate all those so that all the stakeholders  
6 interests are maximized.

7 Q. All right. How do you see the  
8 product of the discussion regarding something like  
9 ensure water quality, for example, how do you see the  
10 product of that discussion being expressed; is it going  
11 to be that -- is it going to be that this is an  
12 important value that must in fact be taken into account  
13 and not affected through timber management in an  
14 adverse way, or is it something more specific than  
15 that?

16 A. Well, I can see - and I can't say I  
17 can give you all of the ways - but I can see a couple  
18 of ways that that can be expressed. The water resource  
19 is usually linked to the fishing that's available and  
20 the tourism potential.

21 Q. Right.

22 A. The timber management activities  
23 would need to be carried out in such a way that there  
24 was not siltation, herbicides getting into the water  
25 that would affect the fishing, siltation or

1 scarification because of the way the timber is  
2 harvested so that it reduces or removes the potential  
3 for the tourism.

4 So it's trying to balance those interests  
5 and expressing them in ways that you get translated  
6 into how the timber component is carried out.

7 Q. Now, how do you understand -- do you  
8 understand that what you have just described to be  
9 different than the way timber management is either  
10 being carried out now or is being proposed by the  
11 Ministry; and, if so, how?

12 A. Yes. I do and I see where you're  
13 leading to in terms of a number of the terms and  
14 conditions.

15 Q. I'm not leading to anywhere. I  
16 really just want to understand your position.

17 A. Well, some of the terms and  
18 conditions actually do deal with, for example,  
19 monitoring for fish populations and seeing what the  
20 effect is of timber management on it, I realize that.

21 The difference, and it's difference --  
22 it's really a fundamental difference in approach,  
23 because the timber management process as I understand  
24 it is that the major objective here is to harvest  
25 timber resources and through identifying other issues,

1 other values as sensitively as we can within the  
2 operational manuals and procedures that either exist or  
3 will be developed, to avoid some of these other values;  
4 in other words, that's constraint and mitigation.

5 The difference, as I see it, in what  
6 we're suggesting with this up front activities it says,  
7 in this forested area we have lots of different goals  
8 and objectives, one of which is timber management, and  
9 let's talk about those goals and objectives and see  
10 what priority timber management has within that, and  
11 then once we know how important timber management is in  
12 this particular locale, then we set about doing the  
13 plan.

14 Q. Okay. Now, when you say determine  
15 what the priority timber management should have, or I  
16 suppose tourism should have, or any of the other uses  
17 should have--

18 A. Right.

19 Q. --are you envisaging this process,  
20 this analysis setting priority uses, et cetera, to  
21 occur every five years, every time a timber management  
22 plan is being prepared?

23 A. No. It should occur with the initial  
24 timber management plan, or if it hasn't been done and,  
25 you know, it's a five-year cycle, I think it should



1 occur initially.

2 Q. All right.

3 A. Then the monitoring allows you to see  
4 how well you're meeting those other goals and  
5 objectives as well as the timber harvesting objectives.

6 Q. And why do you say that it should be  
7 dealt with initially and not every five years. I'm not  
8 being critical I want to understand.

9 A. No, I'm saying it should be dealt  
10 with initially so that you have that initial  
11 identification of goals and objectives, and then I'm  
12 suggesting that it will be monitored with the regular  
13 monitoring and that may lead to changing goals and  
14 objectives at some point in time.

15 Q. Sure. Now, would it be fair to say  
16 that the important point, as I listen to what you're  
17 saying, is the identification up front somewhere  
18 initially of those various uses or mixes of uses and  
19 what's the important thing is not so much that it  
20 occurs within the context of a timber management plan,  
21 but that it occurs somewhere before timber management  
22 planning takes place?

23 A. I think that's a fair  
24 - characterization of it, yes.

25 MR. FREIDIN: Thank you. Those are my

1 questions.

2 DR. HOMENUCK: Can I just add one thing.  
3 I don't want to lose sight of the fact that in those up  
4 front discussions beginning now, any time of the timber  
5 management plan, that the role of the aboriginal  
6 peoples is, I think, different than envisaged now in  
7 the terms and conditions and different than it has been  
8 in the past and I think that that's again, the second  
9 part.

10 MR. MARTEL: Could I ask a question,  
11 because we've heard from NAN and they have an  
12 agreement, we've heard from Treaty 3 extensively and  
13 they have a position, we've heard from OMAA and they  
14 have a different position.

15 Now, how do we determine which of the  
16 groups represents all of the groups in terms of what  
17 should be done? Or how do you work them all in?

18 DR. HOMENUCK: Well, they don't represent  
19 all of the groups.

20 MR. MARTEL: I understand they don't but  
21 they don't even represent a consistent position on what  
22 should be done. That's the difficulty; isn't it?

23 DR. HOMENUCK: Well, except I don't find  
24 that necessarily -- it's difficult, I grant you that.  
25 I don't find that an insurmountable problem because I

1       could see, and I have talked with NAN about their  
2       position and how they feel about the MNR terms and  
3       conditions, and they know what I was going to be --  
4       what Mark and I were going to be presenting.

5                       I think it's quite possible to have  
6       groups within NAN or within Treaty 3 from different  
7       forest management units take different positions as  
8       well because there are local issues and concerns they  
9       have to address.

10                      MR. MARTEL:    Sure.

11                     DR. HOMENUCK:  I think that's part of the  
12       territory that goes with dealing with a third order of  
13       government, and the different positions they're going  
14       to take.  It's not an easy question to answer.

15                     MR. MARTEL:  All right.

16                     MR. FREIDIN:  Thank you.

17                     MADAM CHAIR:  Cross-examination is  
18       finished, Mr. Freidin?

19                     MR. FREIDIN:  Yes.

20                     MADAM CHAIR:  I think that completes the  
21       evidence.

22                     Thank you very much gentlemen.  That was  
23       very efficient.

24                     You must tell Mr. Zilberberg that we  
25       missed him but not a lot.

1 MS. LLOYD: I will.

2 MADAM CHAIR: Good. Well, is there any  
3 other business you want to take up with the Board, Ms.  
4 Lloyd?

5 MS. LLOYD: If I could I would just like  
6 to make a very brief summary closing statement, very  
7 brief.

8

9 MADAM CHAIR: Go ahead.

10 MS. LLOYD: In essence what I would like  
11 to do is just encapsule for you what our intent has  
12 been over the last four days of evidence.

13 I think we've called 20 witnesses and  
14 what we've hoped to achieve and I hope we have achieved  
15 is to give you some insight into what our beliefs our,  
16 what our experiences have been and what our  
17 expectations in terms of timber management planning, in  
18 terms of land use, but also in the broader context  
19 because these issues, the issues of how we run our  
20 society are inseparable from how we plan our timber  
21 management allocations on Crown lands.

22 For us it hasn't been an easy process.  
23 We have very limited resources, limited access to legal  
24 counsel, sometimes more limited than others, and we've  
25 had to fit within a very big hearing a much smaller



1 case than I think would have been our want to do.

2 Because we're a citizens movement --  
3 coalition of groups from the citizens movement and  
4 aboriginal organizations, we felt that it was essential  
5 that we be here, that we be in the room although quite  
6 often we've been outside of the room.

7 There are many stories that we didn't  
8 tell. One of our witnesses when we had the first  
9 meeting with him to talk about the hearing, what that  
10 would be, what it would be like for him to come in the  
11 hearing, his first question was: How many weeks he  
12 would have to talk to you. So we suggested that  
13 perhaps it didn't need to be that lengthy. But there  
14 are many stories.

15 I think for me that conveys some of the  
16 feelings within our organizations, the depth of feeling  
17 people have, that they really want to convey, they  
18 really want to tell their stories to you because you  
19 are going to make decisions about things that are of  
20 central importance to them. So there are many stories  
21 that we didn't tell that we suggested our witnesses may  
22 be not take two weeks to tell.

23 I think of some of the stories of  
24 frustration that we didn't tell. There are many around  
25 the Red Squirrel Road. You heard some evidence this

1 afternoon about how that road was assessed. We haven't  
2 told any of the stories of frustration I don't believe  
3 related to that road, how it was -- the decisions were  
4 made about it and how the road was constructed, how at  
5 the very final hour people were told to leave the road  
6 after months and months and months of blockades, series  
7 of blockades, they were told to leave the road by the  
8 MNR district manager because the road was completed,  
9 and it wasn't until months later that we learned that  
10 at the same time -- that man was being told to take his  
11 people off the road because the road was completed, at  
12 the very same time in some other room the Ministry of  
13 Natural Resources was continuing their work to get an  
14 extension to the terms and conditions for the approval  
15 of that Red Squirrel Road, of that road construction.

16 That's one of the stories of frustration  
17 that we didn't tell and there are many, many more. We  
18 also didn't tell many of the stories of satisfaction  
19 that we have as we see things actually improving in the  
20 bush and in the boardrooms as we deal with the Ministry  
21 of Natural Resources on a day-to-day-to-day basis and  
22 we see district staff spending hours and days of their  
23 time and often their free time going out with us into  
24 the bush to look at what's happening, to look at a cut,  
25 to look at a prescription, to see how it went, so that

1 we can actually have a much better understanding of  
2 what their concerns are, they can understand ours  
3 better. So there are many stories we didn't tell.

4 What we hope we did, is we hope that we  
5 conveyed a number of concerns, a number of incidents, a  
6 number of issues and I think that those go a long  
7 four -- fit within four basic messages, and the one is  
8 that the land must dictate, the land plus dictate how  
9 it's managed.

10 I think another one is that there are  
11 special responsibilities for aboriginal people. For  
12 myself as a non-aboriginal environmental activist or  
13 organizer it's been a privilege to work as part of a  
14 coalition where we were able to really explore what we  
15 had in common and to bring those to you in common.

16 I think we have to also say that another  
17 message is that timber management planning is much more  
18 than just harvesting, it's about the impacts of access,  
19 the impacts on people's lifestyles, on their  
20 traditional land use, it's much, much more than just  
21 timber harvesting.

22 The last message is that the mandate that  
23 MNR has traditionally held to to provide a continuous  
24 supply of timber is no longer acceptable. We  
25 consciously believe that the Ministry of Natural

1 Resources agrees with us on that, we consciously  
2 believe that the Ministry of Natural Resources is in a  
3 process of change and evolution and reorganization,  
4 transformation we would hope, but that's a cautious  
5 belief.

6 So just in closing I think I have to  
7 restate that this process has been an overwhelming  
8 process for us to participate in, not that our  
9 participation is complete with this day, but we are  
10 optimistic, we are optimistic about the decisions that  
11 you'll bring, we are optimistic about how it's going to  
12 better timber management planning.

13 And I would like to thank you, thank you  
14 for your four years and for our four days.

15 MADAM CHAIR: Thank you very much, Ms.  
16 Lloyd.

17 And the Board congratulates you on how  
18 quickly and expeditiously and efficiently you've put  
19 the evidence of 20 witnesses in front of us.

20 Though we want you to know that you seem  
21 to have given an indication that you would have liked  
22 to have had a much longer time appearing before the  
23 Board, but it's been the experience of the Board that  
24 the effectiveness of the presentation of evidence is  
25 certainly not counted in terms of hours or days We have



1       listened for long days to some evidence that I would  
2       suggest is in no way -- you're in no way to construe  
3       that the amount of time before the Board has anything  
4       to do with how carefully we listen to your evidence and  
5       the weight that we'll give it in our decision.

6               And we thank you very much and we would  
7       like you to tell all the people that have been involved  
8       in your case, give them some expression of our  
9       gratitude. And, thank you, that's the end of the  
10      presentation of your evidence.

11             And will we be hearing from you in final  
12      argument?

13             MS. LLOYD: We'll be filing terms and  
14      conditions, draft terms and conditions middle of May  
15      and we hope to attend as much as possible of the reply  
16      evidence and participate in final argument. Due to  
17      resources we're not certain at this point how we will  
18      be going forward into that.

19             MADAM CHAIR: Well, certainly the Board  
20      has asked for written argument and the amount of time  
21      we will be giving to oral presentation will be very  
22      small. Okay.

23             MS. LLOYD: Thank you.

24             MADAM CHAIR: Thank you very much.

25             Oh, one thing before we finish. There

1 was another document, a letter that I was told to make  
2 an exhibit today. It is dated April 9th, 1992, it is  
3 from Mr. John Cutter speaking for Meadowside Lumber  
4 Limited and it is in reference to a comment made during  
5 the North Bay satellite hearing with respect to some  
6 aspect of Meadowside Lumber Limited's business, and we  
7 will make this letter Exhibit 2199, and there are  
8 copies for the parties.

9 ---EXHIBIT NO. 2199: Letter dated April 9, 1992 from  
10 John Cutter of Meadowside Lumber  
11 Limited.

12 ---Whereupon the hearing was adjourned at 3:50 p.m., to  
13 be reconvened on Monday, April 27th, 1992,  
14 commencing at 10:30 a.m.  
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25 BD [C. copyright 1985].















